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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bambermycins

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Intervet, Inc. The supplemental NADA provides for use of bambermycins Type A medicated articles to make Type B and Type C medicated feeds used to increase rate of weight gain in pasture cattle (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers) when consumed free-choice or hand-fed at a rate of not less than 10 milligrams (mg) nor more than 40 mg bambermycins per head per day.

DATES: This rule is effective May 21, 2003.

FOR FURTHER INFORMATION CONTACT: Eric S. Dubbin, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0232, e-mail: *edubbin@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: Intervet, Inc., PO Box 318, 405 State St., Millsboro, DE 19966, filed a supplement to NADA 141–034 that provides for use of GAINPRO (bambermycins) Type A medicated articles to make Type B and Type C medicated feeds used to increase rate of weight gain in pasture cattle (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers) when consumed free-choice or hand-fed at a rate of not less than 10 mg nor more than 40 mg bambermycins per head per day. The supplemental NADA is approved as of February 10, 2003, and the regulations are amended in 21 CFR 558.95 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental impact of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. FDA's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.95 [Amended]

■ 2. Section 558.95 *Bambermycins* is amended by:

■ a. In paragraphs (d)(4)(ii)(*b*) and (d)(4)(iv)(*a*) by removing ''20'' and by adding in its place ''40'';

■ b. In paragraph (d)(4)(iii)(*d*) by adding ''cattle, and dairy and beef replacement heifers'' after ''feeder'', and by removing ''5.33'' and ''10- to 20–milligrams'' and by adding in their respective places ''10.66'' and ''10 to 40 milligrams''; and

■ c. In paragraphs (d)(4)(ii)(*b*), (d)(4)(iii)(*d*), and (d)(4)(iv)(*c*) by adding ''Daily bambermycins intakes in excess of 20 mg/head/day have not been shown to be more effective than 20 mg/head/day.'' at the end of the paragraph.

Dated: May 8, 2003.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 03–12721 Filed 5–20–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–03–214]

RIN 1625–AA11

Regulated Navigation Area; Des Plaines River, Joliet, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard is establishing a regulated navigation area on the Des Plaines River in Joliet, Illinois. This temporary final rule requires that certain southbound tows passing under the Jefferson Street bridge use an assist tug. This action is necessary to ensure vessel and public safety due to an allision with this bridge structure. This rule is intended to restrict vessel traffic in a portion of the Des Plaines River near Joliet, Illinois.

DATES: This rule is effective from 8 a.m. (local) on May 11, 2003 until November 15, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [CGD09–02–214] and are available for inspection or copying at Coast Guard Marine Safety Office (MSO) Chicago, 215 W. 83rd St, Suite D, Burr Ridge, Illinois 60521 between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST2 Kenneth Brockhouse, U.S. Coast Guard Marine Safety Office Chicago, at (630) 986–2175.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. We encourage comments on whether a regulated navigation area is the appropriate tool to provide for the safe navigation of tows transiting through the draws of the Jefferson Street bridge on the Des Plaines River in the vicinity of Joliet, Illinois. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD09–03–214), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Chicago at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. On May 2, 2003, a tow allided with the pier of the Jefferson Street Bridge which resulted in substantial damage to the bridge structure. As a result, it is estimated that the bridge will be inoperable for 4 to 6 months while repairs are made. The Captain of the Port Chicago believes that immediate action is necessary to help prevent any future allisions with the pier. Further, additional allisions might result in total structural failure, closure of the river for a period of time as a result of an allision, and the possible loss of life as a result of another allision.

Background and Purpose

On May 2, 2003, a southbound tow allided with the pier of the Jefferson Street bridge. This allision resulted in significant structural damage to the bridge pier. Southbound tows with a 3 by 5 configuration, transiting under the Cass Street Bridge and then the Jefferson Street Bridge, only have 100 feet of horizontal maneuvering room. In addition, the Des Plaines River regularly has significant current in this area.

In order to prevent future allisions, a regulated navigation area (RNA) is being established from the Ruby Street Bridge to the McDonough Street Bridge in which southbound tows in a 3 by 5 configuration must use an assist tug. This RNA is being established until an adequate protection cell is constructed around the bridge pier.

Discussion of Rule

Southbound tows greater than 89 feet in overall width and more than 800 feet in length must use an assist tug when transiting through the RNA. This RNA encompasses the Des Plaines River from mile 288.7 (the Ruby Street Bridge), to mile 287.3 (the McDonough Street Bridge). Deviation from this rule is prohibited unless specifically authorized by the Commander, Ninth Coast Guard District or his designated representative. His designated representative is the Captain of the Port Chicago.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security. The operational reporting requirements of the RNA are minimal and necessary to provide immediate, improved security for the public, vessels, and U.S. ports and waterways. The requirements do not alter normal barge cargo loading operations or transits. Additionally, this rule is temporary in nature and the Coast Guard may issue a NPRM as it considers whether to make this rule permanent. The minimal hardships that may be experienced by persons or vessels are necessary to the national interest in protecting the public, vessels, and vessel crews from the devastating consequences of acts of terrorism, and from sabotage or other subversive acts, accidents, or other causes of a similar nature.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The operators of southbound tows, in a 3 by 5 configuration, intending to transit through the RNA. This RNA will not have a significant economic impact on a substantial number of small entities because this rule will only remain in effect until a protection cell can be erected or until other recommendations are provided which reduce the risk of allisions with the Jefferson Street Bridge.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1 paragraph (34)(g), of the instruction, from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in NEPA. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. From 8 a.m. on May 11, 2003 through 8 p.m. on November 15, 2003 add temporary § 165.T09–214 to read as follows:

§ 165.T09–214 Regulated Navigation Area; Des Plaines River, Joliet, Illinois

(a) *Regulated navigation area.* The following waters are a Regulated Navigation Area (RNA): All portions of the Des Plaines River between mile 287.3 (McDonough St. Bridge) and mile 288.7 (Ruby Street Bridge).

(b) *Applicability.* This section applies to operators of all southbound tows transiting beneath the Jefferson Street Bridge (mile 287.9), Joliet, Illinois with barge configurations of over 89 feet in overall width and more than 800 feet in length.

(c) *Regulations.* (1) All southbound tows to which this section applies must use an assist tug when transiting through the RNA.

(2) The general regulations contained in 33 CFR 165.13 apply to this section.

(3) Deviation from this section is prohibited unless specifically authorized by the Commander, Ninth Coast Guard District or his designated representatives. Designated representatives include the Captain of the Port Chicago.

Dated: May 9, 2003.

Ronald F. Silva,

Rear Admiral, Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 03–12687 Filed 5–20–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2003–0163; FRL–7306–1]

Pyraflufen-ethyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of pyraflufen-ethyl in or on cotton. Nichino America Incorporated requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective May 21, 2003. Objections and requests for hearings, identified by docket ID number OPP–2003–0163, must be received on or before July 21, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington,

DC 20460–0001; telephone number: (703) 305–6224; e-mail address: *miller.joanne@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. 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–2003–0163. 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/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background and Statutory Findings

In the **Federal Register** of November 20, 2002 (67 FR 70073) (FRL–7184–7), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of a pesticide petition (1F6428) by Nichino America Incorporated, 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808. That notice included a summary of the petition prepared by Nichino America Incorporated, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.585 be amended by establishing tolerances for combined residues of the herbicide pyraflufen-ethyl (ethyl 2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetate) and its acid metabolite, E-1 (2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetic acid), expressed as the ester equivalent in or on cotton undelinted seed at 0.05 parts per million (ppm) and cotton gin byproduct at 1.5 ppm.

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for tolerances for residues of pyraflufen-ethyl on cotton undelinted seed at 0.04 ppm and cotton gin byproduct at 1.5 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

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

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90–day oral toxicity in rats	NOAEL = 5,000 parts per million (ppm) (456–499 milligrams/kilograms/day (mg/kg/day)). LOAEL = 15,000 ppm (1,489–1,503 mg/kg/day) based on clinical signs, death, effects on erythrocytes, changes in clinical chemicals for liver function and splenomegaly.
870.3150	90–day oral toxicity in dogs	NOAEL = 1,000 mg/kg/day. LOAEL not established, no effects observed.
870.3200	28–Day dermal toxicity in rats	NOAEL = 1,000 mg/kg/day. LOAEL not established; no effects observed.
870.3700	Prenatal developmental in rats	Maternal NOAEL ≥ 1,000 mg/kg/day Maternal LOAEL not determined; no effects observed. Developmental NOAEL ≥ 1,000 mg/kg/day. Developmental LOAEL not determined; no effects observed.
870.3700	Prenatal developmental in rabbits	Maternal NOAEL = 20 mg/kg/day. Maternal LOAEL= 60 mg/kg/day based on mortality. Developmental = 60 mg/kg/day. Developmental LOAEL = 150 mg/kg/day based on increased incidence of abortion.
870.3800	Reproduction and fertility effects	Parental NOAEL = 1,000 ppm (70.8–82.3 mg/kg/day (M); 80.1–91.2 (F). Parental LOAEL = 10,000 ppm (721–844 and 813–901 mg/kg/day) based on decreased body weight (bwt) and bwt gains of F_0 and F_1(M) and F_1(F), gross and microscopic liver lesions of (M) and (F)-both generations. Reproductive NOAEL ≥ 10,000 ppm (721–844 and 813–901 mg/kg/day). Reproductive LOAEL not determined; no effects observed. Offspring NOAEL = 1,000 ppm (70.8–82.3 mg/kg/day (M); 80.1–91.2 (F). Offspring LOAEL = 10,000 ppm (721–844 and 813–901 mg/kg/day) based on decreased bwt and bwt gains of the F_1 and F_2 pups.
870.4100	Chronic toxicity in dogs	NOAEL ≥ 1,000 mg/kg/day. LOAEL not determined; no effects observed.
870.4200	Carcinogenicity in mice	NOAEL = 200 ppm (20.99 mg/kg/day (M); 19.58 mg/kg/day (F). LOAEL = 1,000 ppm (109.7 mg/kg/day (M); 98.3 mg/kg/day (F) based on liver toxicity, hepatocellular tumors at 5,000 ppm; possibly hemangioma/ hemangioasarcomas.
870.4300	Chronic toxicity in rodents/carcinogenicity in rats	NOAEL = 2,000 ppm (86.7 mg/kg/day (M); 111.5 mg/kg/day (F). LOAEL = 10,000 ppm (468.1 mg/kg/day (M); 578.5 mg/kg/day (F) based on decreased bwt and bwt gain in males and microcytic anemia, liver lesions and kidney toxicity (both sexes); possible increase pheochromocytomas in females.
870.5100	Gene nutation	Non-mutagenic when tested up to 5,000 μg/plate, in presence and absence of metabolic activation (S9-mix), in *S. typhimurium* strains TA98, TA100, TA1535, TA1537 and TA1538 and *E.coli* strain WP2(uvrA). There was no evidence of induced mutant colonies over background.

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

Guideline No.	Study Type	Results
870.5300	Gene mutation	In mammalian cell gene mutation assays at the TK locus, L5178Y mouse lymphoma cells cultured *in vitro* were exposed to pyraflufen-ethyl in dimethylsulfoxide (DMOS) in the absence of mammalian metabolic activation (S9-mix) and with S9-mix. Concentrations 160 µg/mL were insoluble; cytotoxicity was seen at 80 µg/mL -S9 and 160 µg/mL +S9. There was no increase in the number of mutant colonies over background in the absence of S9-mix but a non-reproducible dose-related increase in the number of mutant colonies was seen in the presence of S9-mix. In mammalian cell gene mutation assays at the TK locus, L5178Y mouse lymphoma cells cultured *in vitro* were exposed to pyraflufen-ethyl in DMSO in the absence of mammalian metabolic activation (S9-mix) and with S9-mix. There was no evidence of induced mutant colonies over background up to cytotoxic concentrations (50 µg/mL-S9; and 350 µg/mL +S9.
870.5375	Chromosomal aberration	In a mammalian cell cytogenetics assay, human primary lymphocyte cultures were exposed to pyraflufen-ethyl in DMSO without metabolic activation (S9-mix) or with S9-mix. Compound precipitation occurred at 2,600 µg/mL +/-S9. There was no evidence of chromosomal aberration induction over background.
870.5395	Cytogenetics	In a CD-1 mouse bone marrow micronucleus assay, five mice/sex/dose/harvest time were treated via oral gavage with pyraflufen-ethyl in corn oil. ET-751 was tested to the limit (LTD) dose of 5,000 mg/kg bwt. Signs of compound toxicity were limited to piloerection, hunched posture in one female, and piloerection and hunched posture in one male receiving 5,000 mg/kg. No bone marrow cytotoxicity was seen at any dose. There was no statistically significant increase in the frequency of micronucleated polychromatic erythrocytes in bone marrow after any dose or treatment time.
870.5500	Bacillus subtilis	In a differential killing/growth inhibition assay in bacteria, strains H17 (rec+) and M45 (rec-) of *B. subtilis* were exposed to pyraflufen-ethyl in DMSO in the presence and absence of metabolic activation (S9-mix). There was no evidence of greater growth inhibition or cell killing in repair-defective strains compared to repair competent strains up to the limit of test material solubility.
870.5550	Unscheduled DNA synthesis (UDS)	In an *in vivo/in vitro* UDS assay in rat hepatocytes, pyraflufen-ethyl was administered to five SPF outbred albino Hsd/Ola Sprague-Dawley male rats per test group by oral gavage (four of the five rats were used for hepatocyte culture). No signs of overt toxicity to the test animals or cytotoxic effects to the target cells were seen up to the LTD (2,000 mg/kg). The mean net nuclear grain count was below zero for both doses at both treatment times indicating no induction of UDS as tested in this study.

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

Guideline No.	Study Type	Results
870.7485	Metabolism and pharmacokinetics	Pyraflufen-ethyl was readily absorbed and excreted within 96 hours following a single or repeated oral dose of 5 mg/kg (plasma $t_{1/2}$ of 3–3.5 hours). However, at a dose of 500 mg/kg, absorption was saturated as indicated by Cmax values which did not reflect the 100-fold dose differential (2.7–2.8 Fg eq/g for the low-dose group and 100–107 Fg eq-hr/g for the high-dose group). Following single or multiple oral low doses (5 mg/kg) of pyraflufen ethyl, urinary excretion accounted for 27–33% of the administered radioactivity suggesting that a multiple exposure regimen did not affect the absorption/excretion processes. Urinary excretion was reduced to only 5–7% following a single 500 mg/kg dose. Excretion via the feces accounted for the remainder of the administered radioactivity in all treatment groups. Analysis of biliary excretion following a single 5 mg/kg dose showed that 36% of the administered dose appeared in the bile. Based upon the excretion data, total bioavailability of a low dose was approximately 56%. Biliary excretion data were not available for a high-dose group which prevented a definitive assessment of bioavailability. Excretory patterns did not exhibit gender-related variability. However, plasma and blood clearance was more rapid in females than in males as shown by plasma/blood radioactivity time-course and the greater AUC values for males (32.3 vs 18.4 Fg eq-hr/g for the low-dose group and 2,738 vs 1,401 Fg eq-hr/g for the high-dose group). Radioactivity concentrations indicated tissue concentrations at or near detection limits (generally <0.01 Fg eq/g and never exceeding 0.02 Fg eq/g) at 96 hrs postdose for any tissues. Therefore, neither pyraflufen-ethyl nor its metabolites appear to undergo significant sequestration. Tissue burden data following compound administration did not suggest a specific target beyond those tissues, namely liver and kidney, which are associated with absorption and elimination of orally administered xenobiotics.

B. Toxicological Endpoints

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

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

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

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

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR PYRAFLUFEN-ETHYL FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose (mg/kg/day) UF/MOE	Hazard Based Special FQPA Safety Factor	Endpoint for Risk Assessment
Dietary Risk Assessments			
Acute dietary	Not applicable	Not applicable	No adverse effect attributable to a single exposure (dose) was observed in oral toxicity studies, including the developmental toxicity studies in rats and rabbits.
Chronic dietary	NOAEL= 20 UF = 100 Chronic RfD = 0.20 mg/kg/day	1X	Mouse carcinogenicity. LOAEL = 98 mg/kg/day based on liver toxicity.
Incidental oral short-term (1–30 days) residential only	NOAEL= 20 UF = 100 MOE=100	1X	Developmental toxicity-rabbit. LOAEL = 60 mg/kg/day based on decreases in body weight and food consumption, GI observations, and abortions.
Incidental oral intermediate-term (1–6 months) residential only	NOAEL= 20 UF = 100 MOE=100	1X	Mouse carcinogenicity. LOAEL = 98 mg/kg/day based on liver toxicity at interim sacrifice.
Non-Dietary Risk Assessments			
Dermal short-term and intermediate-term	Not applicable	Not applicable	In a 28-dermal toxicity study in rats, no dermal or systemic toxicity was seen at the LTD (1,000 mg/kg/day). The physical and chemical characteristics (e.g., Kow is low) indicate that dermal absorption is not expected to occur to any appreciable extent. There is no concern for prenatal and/or postnatal toxicity. Therefore, no hazard was identified and quantification of dermal risk is not required.
Residential	MOE = not applicable	Not applicable	
Occupational	MOE = not applicable	Not applicable	
Inhalation[1] short-term (1–30 days)	Oral NOAEL= 20	1X	Developmental toxicity-rabbit. LOAEL = 60 mg/kg/day based on decreases in bwt and food consumption, GI observations, and abortions.
Residential	MOE = 100		
Occupational	MOE= 100		
Inhalation[1] intermediate-term (1–6 months)	Oral NOAEL= 20	1X	Mouse carcinogenicity. LOAEL = 98 mg/kg/day based on liver toxicity at interim sacrifice.
Residential	MOE = 100		
Occupational	MOE= 100		
Inhalation[1] long-term (< 6 months)	Oral NOAEL= 20	1X	Mouse carcinogenicity. LOAEL = 98 mg/kg/day based on liver toxicity.
Residential	MOE =100		
Occupational	MOE= 100		
Cancer	Classification: ''Likely to be Carcinogenic to Humans'' by the oral route $Q_1^* = 3.32 \times 10^{-2}$ $(mg/kg/day)^{-1}$		

1-Oral endpoints were selected because inhalation studies were unavailable. Absorption via the inhalation route is presumed to be equivalent to oral absorption.

* The reference to the FQPA SF refers to any additional SF retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. Tolerances have been established (40 CFR 180.585) for the combined residues of pyraflufen-ethyl (ethyl 2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetate) and its acid metabolite, E-1 (2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetic acid), expressed as the ester equivalent in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from pyraflufen-ethyl in food as follows:

i. *Acute exposure*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. No adverse effect attributable to a single exposure (dose) of pyraflufen-ethyl was observed in the oral toxicity studies, including the developmental toxicity studies in rats and rabbits. Therefore, EPA did not identify an acute dietary endpoint and an acute dietary assessment was not performed because no acute risk is expected.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the United State Department of Agriculture (USDA) nationwide Continuing Surveys of Food Intake by Individuals (CSFII) 1989–1992 and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: 100% crop treated (PCT) and tolerance-level residues for pyraflufen-ethyl on all treated crops. This assessment was Tier I analysis. The exposure from pyraflufen-ethyl residues in food occupies less than 1% of the chronic population adjusted dose (cPAD) for all population subgroups and is not a concern.

iii. *Cancer*. The cancer dietary exposure assessment was conducted using the DEEM analysis evaluated the individual food consumption as reported by respondents in the USDA nationwide CSFII 1989–1992 and accumulated exposure to the chemical for each commodity. The following assumptions were made for the cancer assessments: 100% PCT and tolerance-level residues for pyraflufen-ethyl on all treated crops. The estimated exposure to the U.S. population (total) to pyraflufen-ethyl is 2×10^{-5} mg/kg/day. Applying the Q_1* of 0.0332 $(mg/kg/day)^{-1}$ to the exposure value results in a cancer risk estimate of 6.6×10^{-7}. Therefore, the lifetime cancer risk to the U.S. population is below EPA's level of concern.

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

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

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

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

Based on the FIRST and SCI-GROW models the EECs of pyraflufen-ethyl for acute exposures are estimated to be 1.25 parts per billion (ppb) for surface water and 0.002 ppb for ground water. The EECs for chronic exposures are estimated to be 0.28 ppb for surface water and 0.002 ppb for ground water.

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

Pyraflufen-ethyl is currently registered for use on the following residential non-dietary sites: Airports, nurseries, ornamental turf, golf courses, roadsides, and railroads. The risk assessment was conducted using the following residential exposure assumptions: adults and children may be exposed to residues of pyraflufen-ethyl through postapplication contact with treated areas which may include residential/recreational areas.

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

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

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

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*. There is no evidence of increased susceptibility of rat or rabbit fetuses following *in utero* exposure in the developmental studies with pyraflufen-ethyl. There is no evidence of increased susceptibility of young rats in the reproduction study with pyraflufen-ethyl. EPA concluded there are no residual uncertainties for prenatal and/or postnatal exposure.

3. *Conclusion*. There is a complete toxicity database for pyraflufen-ethyl and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The field trial data on cotton, while some of which may be limited in geographic representation or lack of early season application, indicate that residues of pyraflufen-ethyl are expected to be finite. EPA determined that the 10X SF to protect infants and children should be removed and instead, a different additional safety factor of 1X should be used. The FQPA factor is removed because: There is no evidence of increased susceptibility of rat or rabbit fetuses following *in utero* exposure in the developmental studies with pyraflufen-ethyl; there is no evidence of increased susceptibility of young rats in the reproduction study with pyraflufen-ethyl; there are no residual uncertainties identified in the exposure databases; the dietary food exposure assessment is expected to be conservative, tolerance-level residues and 100% crop treated information were used; and dietary drinking water exposure is based on conservative modeling estimates.

E. Aggregate Risks and Determination of Safety

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

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

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

1. *Acute risk*. No adverse effect attributable to a single exposure (dose) of pyraflufen-ethyl was observed in the oral toxicity studies, including the developmental toxicity studies in rats and rabbits. Therefore, an acute RfD was not established and no acute risk is expected.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to pyraflufen-ethyl from food will utilize <1% of the cPAD for the U.S. population and <1% of the cPAD for children (1–6 years). Based on the use pattern, chronic residential exposure to residues of pyraflufen-ethyl is not expected. In addition, there is potential for chronic dietary exposure to pyraflufen-ethyl in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

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

Population Subgroup[1]	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)[2]	Ground Water EEC (ppb)[2]	Chronic DWLOC (ppb)[3]
U.S population	0.20	<1	0.28	0.002	7,000
Males (20+ years old)	0.20	<1	0.28	0.002	7,000
Females (13–50 years old)	0.20	<1	0.28	0.002	6,000
Children (1–6 years old)	0.20	<1	0.28	0.002	2,000
Males (13–19 years old)	0.20	<1	0.28	0.002	7,000

[1] Subgroups with the highest food-source dietary exposure were selected for adult males, adult females and children. The following bwts were used (70 kg adult male; 60 kg adult females; 10 kg child).
[2] The crop producing the highest level was used (potatoes, 0.009 lb active ingredient/acre).
[3] Chronic DWLOC (ppb) = [maximum chronic water exposure (mg/kg/day) x bwt (kg)] ÷ [water consumption (L) x 10^{-3} mg/kg]).

3. *Short-term risk*. The short-term aggregate risk assessment estimates risks likely to result from 1–30 days exposure to pyraflufen-ethyl residues from food, drinking water, and residential pesticide uses. High-end estimates of residential exposure are used in the short-term aggregate assessment, while average (chronic) values are used to account for dietary (food only) exposure. The short-term aggregate risk assessment is considered conservative because food-source dietary exposure is based on a Tier 1 DEEM assessment (tolerance level residues and 100% crop treated information were used).

A short-term aggregate risk assessment is not performed for adults because no handler exposure is expected and postapplication inhalation exposure is expected to be negligible. A short-term aggregate risk assessment is required for infants and children because there is a potential for oral post-application exposure resulting from residential uses.

Pyraflufen-ethyl is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for pyraflufen-ethyl.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 170,000 for children (1–6 years old). These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of pyraflufen-ethyl in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in Table 4:

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

Population Subgroup	Aggregate MOE (Food + Residential)[1]	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)[2]	Ground Water EEC (ppb)[2]	Short-Term DWLOC (ppb)[3]
Children (1–6 years old)	170,000	100	0.28	0.002	2,000

[1] Aggregate MOE = NOAEL (Avg Food Exposure + Residential Exposure).
[2] The crop producing the highest level was used (potatoes, 0.009 lb ai/acre).
[3]DWLOC(ppb) = [maximum water exposure (mg/kg/day) x bwt (kg)] ÷ [water consumption (L) x 10^{-3} mg/kg]
*(bwt: Children-10 kg).

4. *Intermediate-term risk*. The intermediate-term aggregate risk assessment estimates risks likely to result from 1–6 months of exposure to pyraflufen-ethyl residues from food, drinking water, and residential pesticide uses. High-end estimates of residential exposure are used in the intermediate-term assessment, while average values are used for food and drinking water exposure.

An intermediate-term aggregate risk assessment is not preformed for adults because no handler exposure is expected and postapplication inhalation exposure is expected to be negligible. Also, an intermediate-term aggregate risk assessment is not preformed for infants and children because postapplication exposure over the intermediate-term duration is not likely based on the use pattern.

5. *Aggregate cancer risk for U.S. population*. Pyraflufen-ethyl has been classified as a ''Likely to be Carcinogenic to Humans'' by the oral route of exposure (Q_1* of 3.32 x 10^{-2} $(mg/kg/day)^{-1}$). Using the exposure assumptions discussed in this unit for cancer, the cancinogenic risk is determined for the U.S. population (total) only. The aggregate cancer DWLOC (2.3 ppb) is greater than EPA's estimates of pyraflufen-ethyl residues in drinking water. Therefore, the aggregate cancer risk from residues of pyraflufen-ethyl in food and drinking water does not exceed EPA's level of concern as shown in the following Table 5:

TABLE 5.—CANCER DWLOC CALCULATIONS FOR THE U.S. POPULATION

Q_1* $mg/kg/day)^{-1}$	Negligible Risk Level[1]	Aggregate cancer risk (food and residential	Ground Water EEC[2] (ppb)	Surface Water EEC[2] (ppb)	Cancer DWLOC[3] (ppb)
0.0332	3.0E-6	8.3E-7	0.002	0.28	2.3

[1] Negligible risk is that below 10^{-6}. 3.0E-6 is statistically within the range that EPA generally accepts as ''negligible risk''.
[2] The crop producing the highest level was used (potatoes).
[3]Cancer DWLOC (ppb) = [maximum water exposure (mg/kg/day) x bwt (kg)] ÷ [water consumption (L) x 10^{-3} mg/kg]

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Nichino America, Inc. has submitted a petition method validation (PMV) and an independent laboratory validation for a Gas Chromatography/Mass Spectometry (GC/MS) method proposed for the enforcement of tolerances for residues of *pyraflufen ethyl* and its acid metabolite, E-1. The proposed plant method is adequate for enforcement of tolerances in/on cotton.

Adequate enforcement methodology (example—GC) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There is neither a Codex proposal, nor Canadian or Mexican limits, for residues of pyraflufen-ethyl in/on cotton. Harmonization is not an issue for this petition.

C. Conditions

A risk assessment for human health has been conducted for this proposed use. Using the proposed or recommended tolerances, the chronic estimates are well below the Agency's level of concern and the cancer risk estimate is also within Agency's level of concern. The following data are being required by the Agency to complete the database requirements prior to approval of an unconditional registration of pyraflufen-ethyl on cotton:

- Product label contain a statement limiting use to commercial applicators only so that possible use by homeowners on residential turf would be minimized and/or include a restriction prohibiting use by homeowners for the turf and ornamental use sites.
- Proposed uses in farmyards, farm buildings, fence lines, dry ditches and ditch banks be removed from the label due to the potential for residues to contact food sources in these use sites.
- The label for pyraflufen ethyl should clearly state the allowable number of applications per season.

V. Conclusion

Therefore, tolerances are established for combined residues of pyraflufen-ethyl (ethyl 2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetate) and its acid metabolite, E-1 (2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetic acid), expressed pyraflufen-ethyl in or on cotton undelinted seed at 0.04 ppm and cotton gin byproduct at 1.5 ppm.

VI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2003–0163 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 21, 2003.

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

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

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

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP–2003–0163, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: May 7, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Section 180.585 is amended by alphabetically adding commodities in the table in paragraph (a) to read as follows:

§ 180.585 Pyraflufen-ethyl; tolerances for residues.

(a) * * *

Commodity	Parts per million
Cotton, gin byproduct	1.5
Cotton, undelinted seed	0.04

* * * * *

[FR Doc. 03–12359 Filed 5–20–03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2003–0151; FRL–7305–2]

Indoxacarb; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for combined residues of indoxacarb and its R-enantimomer in or on collards. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on collards. This regulation establishes a maximum permissible level for residues of indoxacarb in this food commodity. The tolerance will expire and is revoked on June 30, 2006.

DATES: This regulation is effective May 21, 2003. Objections and requests for hearings, identified by docket ID number OPP–2003–0151, must be received on or before July 21, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6463; e-mail address: *Madden.Barbara@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a federal or state government agency (NAICS 9241) involved in administration of environmental quality programs (i.e., Departments of Agriculture, Environment, etc).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. 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–2003–0151. 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/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues of the insecticide indoxacarb [(S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno [1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate] and its R-enantimomer [(R)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno [1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate in or on collards at 3.0 parts per million (ppm). This tolerance will expire and is revoked on June 30, 2006. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

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

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

Section 18 of the FIFRA authorizes EPA to exempt any Federal or State

agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act of 1996 (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Indoxacarb on Collards and FFDCA Tolerances

The State of Georgia requested an emergency exemption use for indoxacarb (Avaunt®) for control of the diamondback moth in collards, since this pest appears to have developed resistance to almost all available chemical alternatives. Although spinosad has provided satisfactory diamondback moth control until recently, field failures were detected in 2002, suggesting that resistance may be involved. According to the State, potential yield losses tend to be either 0% or 100%, since in affected fields the damage level may be considered either acceptable or a cause for rejection, in which case the crop would not be harvested. The State estimated an overall 10% decrease in yield in the absence of effective insecticides and a doubling of insecticide costs from $24.50 to $49.00 because of a lack of efficacy leading to repeated applications. The 10% estimate represents anticipated total losses in a few fields and minor losses in fields with manageable moth populations. EPA has authorized under FIFRA section 18 the use of indoxacarb on collards for control of diamond back moth in Georgia. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of indoxacarb in or on collards. In doing so, EPA considered the safety standard in section 408(b)(2) of the FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of the FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of the FFDCA. Although this tolerance will expire and is revoked on June 30, 2006, under section 408(l)(5) of the FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on collards after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

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

IV. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of indoxacarb and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for a time-limited tolerance for combined residues of indoxacarb [(S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy) phenyl] amino] carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate] and its R-enantimomer [(R)-methyl 7-chloro-2,5-dihydro-2- [[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino] carbonyl]indeno[1,2-e][1,3,4] oxadiazine-4a(3H)-carboxylate] in or on collards at 3.0 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by indoxacarb and the endpoints used in risk assessment are discussed in Unit III.A. and B. of the final rule on indoxacarb pesticide tolerances published in the **Federal Register** of July 18, 2002 (67 FR 47299) (FRL–7186–2). Please refer to that document should you desire detailed toxicological information on indoxacarb.

The Agency has identified an acute dietary endpoint for females 13 years and older and for the general population, including infants and children. The acute population adjusted dose (aPAD) for females is 0.02 milligrams/kilogram/day (mg/kg/day). The acute dietary endpoint for the general population including infants and children is 0.12 mg/kg/day. The chronic population adjusted dose (cPAD) for all populations is 0.02 mg/kg/day. Indoxacarb has been classified as ''not likely'' to be carcinogenic to humans.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.564) for the combined residues of indoxacarb, in or on a variety of raw agricultural commodities including alfalfa, head lettuce, peanuts, potatoes, and soybeans. Additionally, there are tolerances for milk, milk fat, meat, fat and meat by-products of cattle, goat, hog, horse, and sheep. Risk assessments were conducted by EPA to assess dietary exposures from indoxacarb in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. The Dietary Exposure Evaluation Model (DEEM® version 7.76) analysis evaluated the individual food consumption as reported by respondents in the U.S. Department of Agriculture (USDA) 1989–1992 nationwide Continuing

Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: Acute Tier II assessment, a partially refined analysis with use of anticipated residues (ARs) from field trial data, refined processing factors, and 100% crop treated.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the DEEM® (version 7.76) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Tolerance level residues for all commodities and assumed all raw agricultural commodities were 100% treated with indoxacarb. Refined processing factors were used in the chronic analysis for several commodities, in place of the DEEM® default processing factors.

iii. *Cancer*. Indoxacarb has been classified as ''not likely'' to be carcinogenic to humans. Therefore, cancer risk was not assessed.

iv. *Anticipated residue information*. Section 408(b)(2)(E) of the FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E) of the FFDCA, EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

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

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

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

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

Based on the PRZM/EXAMS and SCI-GROW models, the EECs of indoxacarb for acute exposures are estimated to be 13.7 parts per billion (ppb) for surface water and 0.02 ppb for ground water. The EECs for chronic exposures are estimated to be 3.7 ppb for surface water and 0.02 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Indoxacarb is not registered for use on any sites that would result in residential exposure.

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

EPA does not have, at this time, available data to determine whether indoxacarb has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, indoxacarb does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that indoxacarb has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Safety Factor for Infants and Children

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

The prenatal and postnatal toxicology data base for indoxacarb is complete with respect to FQPA considerations. The nature of the toxic effects caused by indoxacarb are discussed in Unit III.D. of the final rule on indoxacarb pesticide tolerances published in the **Federal Register** of July 18, 2002 (67 FR 47299) (FRL–7186–2). Please refer to that document should you desire detailed toxicological information on indoxacarb regarding FQPA considerations.

The Agency concluded that the FQPA safety factor could be reduced to 1X for indoxacarb. There is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure. EPA did require a developmental neurotoxicity study as confirmatory data. The requirement of a developmental neurotoxicity study is not based on the criteria reflecting special concern for the developing fetuses or young which are generally used for requiring a DNT study - and a safety factor (e.g., neuropathy in adult animals; central nervous system malformations following prenatal exposure; brain weight or sexual maturation changes in offspring; and/or functional changes in offspring) and therefore, does not warrant an FQPA safety factor; and the dietary (food and drinking water) exposure assessments will not underestimate the potential exposures for infants and children. There are no registered residential uses at the current time.

D. Aggregate Risks and Determination of Safety

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

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

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

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to indoxacarb will occupy 12% of the aPAD for the U.S. population, 64% of the aPAD for females 13 years and older, 67% of the aPAD for all infants (<1 year old) and 79% of the aPAD for children 1–5 years old, the children subpopulations at greatest exposure. In addition, despite the potential for acute dietary exposure to indoxacarb in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of indoxacarb in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in Table 1. below:

TABLE 1.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO INDOXACARB

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. population	0.12	12	13.7	0.02	3,700
All Infants (< 1year old)	0.12	67	13.7	0.02	400
Children (1–5 years old)	0.12	79	13.7	0.02	760
Females (13–40 years old)	0.02	64	13.7	0.02	218

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to indoxacarb from food will utilize 30% of the cPAD for the U.S. population, 29% of the cPAD for all infants (<1 year old) and 79% of the cPAD for children (1–2 years old), the children subpopulation at greatest exposure. There are no residential uses for indoxacarb that result in chronic residential exposure to indoxacarb. In addition, despite the potential for chronic dietary exposure to indoxacarb in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of indoxacarb in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in Table 2. below:

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

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.02	30	3.7	0.02	490
All infants (< 1 year old)	0.02	29	3.7	0.02	65

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

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
Children (1–2 years old)	0.02	79	3.7	0.02	30

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Indoxacarb is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). Indoxacarb is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

5. *Aggregate cancer risk for U.S. population*. Indoxacarb has been classified as ''not likely'' to be carcinogenic to humans. Therefore, cancer risk was not assessed.

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

V. Other Considerations

A. Analytical Enforcement Methodology

The petitioner has submitted a method for enforcing tolerances of indoxacarb in/on plant commodities, a high-performance liquid chromatography (HPLC)/column switching/ultraviolet (UV) detector method (AMR 2712–93). This method has been radiovalidated and undergone a successful independent laboratory validation (ILV) and a successful petition method validation (PMV) trial by the Analytical Chemistry Laboratory (ACL). The HPLC/UV Method AMR 2712–93 was forwarded to the Food and Drug Administration for inclusion in the Pesticide Analytical Manual (PAM), Vol. II). The Agency has determined that this method is suitable for enforcement of the tolerances associated with this petition.

Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no Mexican, Canadian or Codex Maximum Residue Limits (MRLs) established for indoxacarb on collards. Therefore, no compatibility problems exist for the proposed tolerance.

VI. Conclusion

Therefore, the tolerance is established for combined residues of the insecticide indoxacarb [(S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate] and its R-enantimomer [(R)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl) [4-(trifluoromethoxy)phenyl] amino]carbonyl] indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate] in or on collards at 3.0 ppm.

VII. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2003–0151 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 21, 2003.

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

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

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

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3.*Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by the docket ID number OPP–2003–0151, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VIII. Statutory and Executive Order Reviews

This final rule establishes a time-limited tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under section 408 of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final

rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: May 9, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Section 180.564 is amended by alphabetically adding the following commodity to the table in paragraph (b) to read as follows:

§ 180.564 Indoxacarb; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Collards	3.0	06/30/06

* * * * *

[FR Doc. 03–12480 Filed 5–20–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7499–8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of partial deletion of Cecil Field Naval Air Station (Site) From the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency, Region 4, announces the partial deletion of the Cecil Field Naval Air Station Superfund Site (the ''Site'') (EPA ID# FL 5170022474) from the National Priorities List (NPL). The portion to be deleted is described below. The NPL is codified as appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. 9605. The EPA has determined, with the concurrence of the State of Florida through its Department of Environmental Protection, that the parcels to be deleted under this action do not pose a significant threat to public health or the environment, as defined by CERCLA, and therefore, further remedial measures pursuant to CERCLA are not appropriate for these parcels.

The remaining parcels comprising the Cecil Field Naval Air Station Superfund Site will remain on the NPL. Response actions are either underway at these parcels or the parcels do not require any further response action other than operation and maintenance activities and enforcement.

EFFECTIVE DATE: June 20, 2003.

FOR FURTHER INFORMATION CONTACT: Deborah A. Vaughn-Wright, Remedial Project Manager, Federal Facilities Branch, Waste Management Division, U.S. Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303, 404–562–8539, fax 404–562–8518, e-mail *vaughn-wright.debbie@epa.gov.*

SUPPLEMENTARY INFORMATION: The portions of Cecil Field to be deleted from the NPL include OU 4 (site 10), OU 5 (site 14), OU 12 (sites 44, 42 and the Old Golf Course) and an additional 16,527 acres which are not associated with an operable unit that have been evaluated as not posing a risk to human health and the environment (BRAC environmental condition of property 1, 2, 3 and 4).

The boundaries of the base are within the following coordinates: 30.3012 North Latitude, 81.9306 West Longitude; 30.3012 North Latitude, 81.9244 West Longitude; 30.3063 North Latitude, 81.8781 West Longitude; 30.2468 North Latitude, 81.8445 West Longitude; 30.1784 North Latitude, 81.8676 West Longitude; 30.1783 North Latitude, 81.8847 West Longitude. Within these coordinates are several areas which are not part of this partial deletion. The areas not included are Building 635, Building 605, Potential Source of Contamination (PSC) 51 (Current golf Course), Operable Unit (OU) 1 (Sites 1—Old Landfill and Site 2—recent landfill), OU 2 (Site 5—Oil Disposal Area Northwest and Site 17—Oil and Sludge Disposal Pit Southwest), OU 3 (Site 7—Old Firefighter Training Area and Site 8—Boresite Range/Hazardous Waste Storage/Firefighting Area), OU 5 (Site 15—Blue 10 Ordnance Disposal Area, Site 49—Recent Skeet Range), OU 6 (site 11—Golf Course Pesticide Disposal Area), OU 7, (Site 16—AIMD Seepage Pit/NDI Holding Tank), OU 8 (Site 3—Oil and Sludge Disposal Pit), OU 9 (Site 36—Control Tower TCE Plume, Site 37—Hangars 13 and 14 DCE Plume, Site 57—Building 824A/Day Tank 1 Area, and Site 58—Building 312 Area), OU 10 (Site 21—Golf Course Maintenance Area and Site 25—Former Transformer Storage Area), OU 11 (Site 45—Former Steam Generating Plant), and OU 12 (Site 32—Former DRMO Area). A Notice of Intent to Delete for this site was published in the **Federal Register** on January 29, 2003 (68 FR 4429). The closing date for comments on the Notice of Intent to Delete was March 31, 2003. EPA received no comments during this period.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Deletion from the NPL does not necessarily preclude further remedial action. Federal Facilities are not subject of the Hazardous Substances Response Fund (Fund) financed remedial actions. However, all federal facilities have a continuing statutory duty to conduct further remediation, if required even after the federal property is transferred to non-federal owners.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: April 18, 2003.

A. Stanley Melburg,

Acting Regional Administrator, Region 4.

■ For the reasons set out in the preamble, 40 CFR part 300, Title 40 of Chapter 1 of

the Code of Federal Regulations is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B—[Amended]

■ 2. Table 2 of appendix B to part 300 is amended by revising the entry for Cecil Field Naval Air Station to read as follows:

Appendix B to Part 300—National Priorities List

* * * * *

TABLE 2.—FEDERAL FACILITIES SECTION

St	Site name	City/County	Notes [a]
FL	Cecil Field Naval Air Station	Jacksonville	P

(a) * * *

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P=Sites within partial deletion(s).

[FR Doc. 03–12476 Filed 5–20–03; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Parts 1510 and 1511

[Docket No. TSA–2001–11120 and TSA–2002–11334; Amendment Nos. 1510–2 and 1511–1]

RIN 1652–AA29

Temporary Suspension of the September 11th Security Fee and the Aviation Security Infrastructure Fee

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Temporary final rule.

SUMMARY: The Transportation Security Administration (TSA) is issuing this rule to temporarily suspend the September 11, 2001, Passenger Civil Aviation Security Service Fee and the Aviation Security Infrastructure Fee (ASIF) during the period beginning June 1, 2003, and ending September 30, 2003, as provided in Public Law 108–11, enacted on April 16, 2003, titled, ''Emergency Wartime Supplemental Appropriations Act, 2003'' (Appropriations Act).

TSA interprets the Appropriations Act to prohibit TSA from requiring passengers to pay the September 11th Security Fee if they purchase air transportation during the suspension period, regardless of whether the air transportation actually takes place during the suspension period. Accordingly, TSA will not impose the September 11th Security Fee on air transportation purchased from 12 a.m., Eastern Daylight Time, on June 1, 2003, through 11:59 p.m., Eastern Daylight Time, on September 30, 2003.

The Appropriations Act also prohibits TSA from imposing the ASIF during the suspension period. Therefore, air carriers and foreign air carriers engaged in air transportation will not incur any obligations to make ASIF payments to TSA for the months of June, July, August, and September of 2003, which otherwise would have been required to be paid to TSA by the last day of July, August, September, and October of 2003, respectively.

DATES: This rule is effective from June 1, 2003, through September 30, 2003.

FOR FURTHER INFORMATION CONTACT: Randall Fiertz, Office of Revenue, Office of Finance and Administration, Transportation Security Administration Headquarters, West Building, Floor 5, TSA–14, 400 Seventh Street, SW., Washington, DC 20590; e-mail: *TSA-Fees@dhs.gov*, telephone: 571–227–2323; or Susan Truax, Office of the Chief Counsel, Transportation Security Administration Headquarters, West Building, Floor 8, TSA–2, 400 Seventh Street, SW., Washington, DC 20590; e-mail: *Susan.Truax@dhs.gov*, telephone: 571–227–1996.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Document

You can get an electronic copy using the Internet by—

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) web page (*http://dms.dot.gov/search*);

(2) Accessing the Government Printing Office's web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html*; or

(3) Visiting the TSA's Law and Policy web page at *http://www.tsa.dot.gov/public/index.jsp*.

In addition, copies are available by writing or calling the individuals in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information and advice about compliance with statutes and regulations within the TSA's jurisdiction. Any small entity that has a question regarding this document may contact the individuals listed in **FOR FURTHER INFORMATION CONTACT**. Persons can obtain further information regarding SBREFA on the Small Business Administration's web page at *http://www.sba.gov/advo/laws/law_lib.html*.

Good Cause for Immediate Adoption

This action is being taken without providing the opportunity for notice and comment, and it provides for an effective date less than 30 days after publication in the **Federal Register**.

Section 44940(d)(1) of title 49, U.S.C. explicitly exempts the imposition of the civil aviation security fees authorized in section 44940 from the procedural rulemaking notice and comment procedures set forth in 5 U.S.C. 553 of the Administrative Procedure Act (APA). Apart from that exemption, the APA allows an agency to forego notice and comment rulemaking when ''the agency for good cause finds * * * that notice and public procedures thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b). TSA finds good cause under 5 U.S.C. 553 that notice and comment are impracticable and contrary to the public interest before issuing this rule. Immediate action is necessary to provide sufficient time to direct and foreign air carriers to implement any necessary changes in their business practices before the beginning of the suspension period.

Further, as the Appropriations Act mandates the effective dates for the suspension period of the civil aviation security fees, the Administrator finds

that good cause exists under 5 U.S.C. 553(d) for making this final rule effective less than 30 days after the date of publication in the **Federal Register**.

Background

Under 49 U.S.C. 44940 and the Transportation Security Regulations at 49 CFR parts 1510 and 1511, respectively, air carriers and foreign air carriers are required to pay to TSA fees known as the September 11th Security Fee and the Aviation Security Infrastructure Fee (ASIF).

The September 11th Security Fee is a fee in the amount of $2.50 per enplanement imposed by TSA on passengers of domestic and foreign air carriers in air transportation, foreign air transportation, and intrastate air transportation originating at airports in the United States. This fee is limited to $2.50 per enplanement for up to two enplanements (or up to $5) per one-way trip or four enplanements (or up to $10) per round trip. 49 CFR 1510.5(a). Section 118 of the Aviation and Transportation Security Act (ATSA) (Pub. L. 107–71; 11/19/2001) authorized TSA to impose the September 11th Security Fee to help pay TSA's costs of providing civil aviation security services. Under 49 CFR 1510.9(a) and (b), direct air carriers and foreign air carriers must collect from each passenger a September 11th Security Fee on air transportation sold on or after February 1, 2002.

The ASIF is a fee imposed by TSA on air carriers and foreign air carriers engaged in air transportation, foreign air transportation, and intrastate air transportation, based on each carrier's security costs incurred in the year 2000. Section 118 of the ATSA authorized TSA to impose the ASIF, to the extent that the September 11th Security Fee was insufficient to pay TSA's costs of providing civil aviation security services. Under 49 CFR 1511.5 and 1511.7(b), each air carrier and foreign air carrier engaged in air transportation must pay to TSA the ASIF incurred for each month by the last calendar day of the following month. For months up to and including September of 2004, the payment is 8.333 percent of the total amount of the carrier's costs of screening passengers and property transported by passenger aircraft in the United States during calendar year 2000.

On April 16, 2003, the President signed into law the Appropriations Act, which among other things, prohibits the Under Secretary for Border and Transportation Security (BTS) of the Department of Homeland Security from imposing the September 11th Security Fee and the ASIF during the period beginning June 1, 2003, and ending September 30, 2003 (suspension period). TSA, which is an agency within the Department of Homeland Security and operating under the direction of the Under Secretary of BTS, is the agency charged with imposing these fees by regulation. Therefore, TSA is publishing this rule to temporarily suspend these fees as required by the Appropriations Act. Unless otherwise defined in this document, any terms used in this document have the meaning set forth in 49 CFR parts 1510 and 1511.

Discussion of the Rule

During the suspension period from June 1, 2003, through September 30, 2003, TSA is suspending §§ 1510.5 and 1510.9(a) through (c), as well as §§ 1511.5(a) through (c) and 1511.7(b), and adding new §§ 1510.23 and 1511.15, respectively.

Suspension of the September 11th Security Fee

The Appropriations Act prohibits TSA from imposing the September 11th Security Fee during the suspension period. TSA interprets this provision to mean that TSA may not require passengers to pay the September 11th Security Fee if they purchase air transportation (tickets) during the suspension period, regardless of whether the air transportation actually takes place during the suspension period. Accordingly, TSA is establishing the following requirements governing direct and foreign air carrier compliance with 49 CFR part 1510 during the suspension period.

Tickets Purchased During the Suspension Period. Under TSA's regulation at 49 CFR 1510.9, where a passenger purchases a ticket from a direct or foreign air carrier, or from the carrier's agent such as a travel agent, the carrier must collect the September 11th Security Fee from the passenger at that time. Notwithstanding 49 CFR 1510.9(a) and (b), a direct air carrier or foreign air carrier must not collect the September 11th Security Fee from any passenger for air transportation sold during the suspension period. This means that when a passenger purchases a ticket from a direct or foreign air carrier or its agent and the passenger pays in full for the ticket at any time from 12 a.m., Eastern Daylight Time, on June 1, 2003 through 11:59 p.m., Eastern Daylight Time, on September 30, 2003, the carrier must not collect the September 11th Security Fee from the passenger. Since 49 CFR 1510.5(c) imposes the security fee on passengers obtaining tickets by redeeming frequent flyer awards, the carrier must not collect the fee on such tickets issued during the suspension period. In addition, notwithstanding 49 CFR 1510.9(c), the direct or foreign air carrier will not incur any obligation to pay the amount of such uncollected fee to TSA.

Under 49 CFR 1510.9(d), direct and foreign air carriers may not collect the September 11th Security Fee unless required by part 1510. Therefore, if a direct or foreign air carrier collects a September 11th Security Fee from a passenger who purchases a ticket during the suspension period, the carrier must refund the fee to the passenger.

Direct and foreign air carriers must continue to collect the September 11th Security Fee on air transportation purchased by passengers through 11:59 p.m., Eastern Daylight Time, on May 31, 2003, even if the flight for which the transportation is purchased is to be operated during the suspension period.

Tickets Reissued During the Suspension Period. If a passenger purchases a ticket before the suspension period begins and the carrier reissues a replacement ticket during the suspension period without any changes to the original itinerary, the carrier continues to be responsible for collecting the amount of the September 11th Security Fee that applied upon the initial purchase of the ticket. If, as a result of the reissuance, however, the ticket is repriced during the suspension period, TSA considers the date the ticket was reissued to be the date the passenger purchased the ticket. Therefore, the September 11th Security Fee will not apply to the reissued ticket. Repricing a ticket means a transaction in which the itinerary of a paid ticket is revised due to voluntary changes made by the passenger and the ticket is reissued to determine the new price of the itinerary. Section 1510.5(c) of 49 CFR imposes the fee on tickets obtained by redeeming frequent flyer awards. However, upgrades using these awards are not charged an additional fee. Therefore, redeeming these awards during the suspension period for cabin upgrades must not be treated as repricing the ticket and the fee must continue to be charged. Free upgrades also do not constitute repricing and therefore do not result in refund of the fee.

Example 1. A passenger purchases a round-trip ticket before the suspension period with two enplanements per one-way trip (for a total of four enplanements) and, due to changes made by the passenger, the carrier reissues the ticket during the suspension period with a revised itinerary of one enplanement per trip (for a total of two enplanements), which results in repricing of

the itinerary. The carrier must refund to the passenger the amount of the September 11th Security Fee previously collected when the passenger initially purchased the ticket, and the carrier must not collect the fee for the reissued ticket.

Example 2. If a passenger purchases a ticket before the suspension period and the carrier reissues the ticket during the suspension period because the passenger redeems frequent flier awards in order to obtain an upgrade, the carrier must not refund the September 11th Security Fee it collected when the passenger initially purchased the ticket. Similarly, if the carrier reissues the ticket during the suspension period because the carrier provided a free upgrade, the carrier must not refund the September 11th Security Fee.

Example 3. If a passenger purchases a ticket prior to the suspension period and the travel is already underway during the suspension period and there is a repricing of the ticket, the carrier must not collect the September 11th Security Fee for the changed or unused portion of the itinerary. Therefore, any fee collected for the changed or unused portion of the itinerary must be refunded to the passenger.

Prepaid Air Transportation. In the case of prepaid air transportation (for example, prepaid ticket advice), if the passenger fully prepays air transportation before the suspension period and the carrier issues a ticket against the prepaid amount during the suspension period, the carrier must collect the September 11th Security Fee for that ticket, because TSA considers the air transportation to have been purchased before the suspension period. However, if a passenger fully prepays air transportation during the suspension period and the carrier issues a ticket against the prepaid amount during or after the suspension period, the carrier must not collect the September 11th Security Fee for that ticket.

Tickets for Passengers on Public Charter Flights. As discussed above, under TSA's regulation at 49 CFR 1510.9, where a passenger purchases a ticket from a direct or foreign air carrier, or from the carrier's agent such as a travel agent, the carrier must collect the September 11th Security Fee from the passenger at the time of ticket purchase. On January 25, 2002, TSA issued a letter clarifying when the fee is considered to be collected in the case of passengers who purchase tickets on public charter flights.[1]

Unlike in the case of scheduled passenger flights, passengers on public charter flights purchase their tickets from a public charter operator. Regulations of the Department of Transportation require the charter operator to place all funds collected from passengers in an escrow account and to forward payment to the direct or foreign air carrier operating the flight at a later date.[2] In its January 25th letter, TSA made clear that tickets purchased by public charter passengers are not considered to be sold for purposes of TSA's regulations governing the September 11th Security Fee, until the earlier of: (1) The time the direct or foreign air carrier receives funds from the public charter escrow account; or (2) the date the direct or foreign air carrier operates the flight. The purpose of this interpretation by TSA was to more closely align a direct or foreign air carrier's obligation to pay the fee to TSA with its actual receipt of the fee from the public charter operator. TSA will maintain the existing payment structure for the charter operators to remit the September 11th Security Fees to direct and foreign air carriers while also maintaining the requirements for direct and foreign air carriers to remit the fees to TSA during and after the suspension period.

As a result, however, the definition of when air transportation is sold on a public charter flight for purposes of 49 CFR part 1510 does not coincide with the time the passenger actually purchases a ticket for that flight. As discussed above, the Appropriations Act suspends the imposition of fees on air transportation that a passenger actually purchases during the suspension period. Accordingly, TSA is providing the following guidance to direct and foreign air carriers related to air transportation on public charter flights. During the suspension of the September 11th Security Fee, TSA will (1) continue to allow direct air carriers to remit the already collected fees to TSA according to the structure identified in the January 25, 2002, letter; however (2) Charter operators may not collect September 11th Security Fees from passengers paying in full during the suspension period.

Additional Guidance for Suspension of Fees for Public Charter Passengers. For passengers on public charter flights, when the passenger purchases a ticket from the charter operator, which means paying the charter operator *in full* for the ticket at any time from 12 a.m., Eastern Daylight Time, on June 1, 2003 through 11:59 p.m., Eastern Daylight Time, on September 30, 2003, the public charter operator must not collect the September 11th Security Fee from the passenger. In addition, since the fee will not be imposed on passengers, the direct or foreign air carrier operating the flight must not collect the September 11th Security Fee from the charter operator for any passengers who purchased tickets from the public charter operator during the suspension period. Notwithstanding 49 CFR 1510.9(c), the direct or foreign air carrier will not incur any obligation to pay the amount of such fee (not collected from passengers) to TSA.

Continuing Payment of Fees to TSA. Under 49 CFR 1510.13(a), direct and foreign air carriers must pay all September 11th Security Fees imposed each calendar month to TSA by the last calendar day of the month following the imposition of the fee. Therefore, direct and foreign air carriers must pay to TSA any September 11th Security Fees imposed on tickets purchased during the month of May, 2003, no later than June 30, 2003. In addition, any other security fees imposed prior to the suspension period, but not remitted by air carriers to TSA, are still due to TSA during and after the suspension period.

In the case of tickets purchased on public charter flights, direct and foreign air carriers must continue to forward to TSA, in accordance with 49 CFR 1510, any September 11th Security Fees paid by passengers who purchased tickets prior to the beginning of the suspension period. These payments continue to be due to TSA by the last calendar day of June, July, August, and September of 2003.

For example, if a passenger purchases a ticket from a public charter operator on May 15, 2003, for a flight that will take place on June 15, 2003, the public charter operator will collect the September 11th Security Fee from the passenger and place it in an escrow account. As explained in TSA's letter of January 25, 2002, in order to more closely align a direct or foreign air carrier's obligation to pay the fee to TSA with the carrier's actual receipt of the fee from the public charter operator, the ticket is considered to be sold at the time the charter operator provides the escrow funds to the direct or foreign air carrier operating the flight or the date the flight occurs, whichever comes first. If the public charter operator, in the example, provides the escrow funds to the carrier on June 14, 2003, the carrier must pay the fee to TSA by July 31, 2003. If a direct or foreign air carrier does not collect the appropriate fee from a passenger, the air carrier is still responsible for paying the fee to TSA.

[1] You may obtain an electronic copy of the letter by accessing TSA's electronic docket for TSA 2001–11120. Using the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*), type in the last 5 digits of the docket number shown above. Click on ''search.'' On the next page, which contains the docket summary information for the docket you selected, click on the link for TSA 2001–11120–11.

[2] *See* 14 CFR 212.8.

A carrier may offset fees refunded to passengers during the suspension period against future amounts of September 11th Security Fees due to TSA in June 2003 and following months under 49 CFR part 1510.

Resumption of Imposition of the September 11th Security Fee. TSA will resume imposition of the September 11th Security Fee beginning at 12 a.m. on October 1, 2003, without any further notice. Therefore, direct and foreign air carriers must resume collecting and paying to TSA the September 11th Security Fee on tickets purchased by passengers beginning on 12 a.m., Eastern Daylight Time, on October 1, 2003, in accordance with the requirements of 49 CFR part 1510. If an air carrier does not collect the appropriate fee from a passenger, that should have been collected before the suspension period, the air carrier is still responsible for paying the fee to TSA.

In the case of public charter flights, because public charter operators will not collect September 11th Security Fees from passengers who purchase tickets during the suspension period, there will be instances where the escrow payments that direct or foreign air carriers receive from public charter operators after September 30, 2003, will not include September 11th Security Fees for some or all of the tickets sold for a flight. If the public charter operator did not collect the fee due to the suspension, the direct or foreign air carrier will not incur any obligation to pay those fees to TSA, notwithstanding 49 CFR part 1510.

Reporting Requirements Continue During the Suspension Period. In accordance with 49 CFR 1510.17, each direct and foreign air carrier must continue to provide TSA with quarterly reports that provide an accounting of fees imposed, collected, refunded, and remitted to TSA. If a carrier collects no fees during the suspension period, the carrier must submit the required report showing zeros in the appropriate fields in the report. The Bureau of Transportation Statistics collects such data for TSA. The Bureau website address for reporting the data is *http://www.bts.gov/oai/tsa/*. For further information on these reporting requirements, air carriers may also contact Ms. Nancy Sharpe, Data Administrator, Bureau of Transportation Statistics, Office of Airline Information, K–14, 400 7th Street, SW., Room 4125, Washington, DC 20590, phone: 202–366–2261, fax: 202–366–3383.

Travel Involving More than One Carrier. For purposes of 49 CFR part 1510, a direct air carrier or foreign air carrier that provides or offers to provide air transportation is considered to be the selling carrier. If a passenger's air transportation includes travel on two or more carriers, or if the passenger's air transportation is otherwise on an aircraft not operated by the selling carrier, the selling carrier is responsible for paying the September 11th Security Fee applicable to the air transportation.

Suspension of the ASIF

The Appropriations Act prohibits TSA from imposing the ASIF during the suspension period, June 1, 2003, to September 30, 2003. Therefore, notwithstanding 49 CFR 1511.5 (a) through (c) and 1511.7(b), air carriers and foreign air carriers engaged in air transportation will not incur any obligations to make payments to TSA for the months of the suspension period that otherwise would be required under 49 CFR 1511.7(b) to be paid in July, August, September, and October of 2003. Payment due under 49 CFR 1511.7(b) for May of 2003 remains due by June 30, 2003. Any other ASIF incurred prior to the suspension period, but not remitted to TSA, continues to be due to TSA during and after the suspension period.

TSA will resume imposition of the ASIF beginning October 1, 2003, without any further notice. Therefore, direct and foreign air carriers must resume making payments to TSA under 49 CFR part 1511, beginning with the payment due under 49 CFR 1511.7(b) no later than November 30, 2003.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the TSA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this rule.

Regulatory Impact Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. Fourth, the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires 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 $100 million or more annually (adjusted for inflation.)

Executive Order 12866 Assessment

In conducting these analyses, TSA has determined that the economic impact of this rule does not meet the standards for a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3), of that Order. However, TSA has determined that because of the public interest in the subject of security fees, this rule is considered significant and, therefore, has been reviewed by the Office of Management and Budget. Although a regulatory analysis or evaluation does not accompany this rule, TSA recognizes the rule will impose no or de minimus costs on the aviation industry and the public other than those weighed by Congress in passing the Appropriations Act. Air carriers will benefit through not having to collect the security fees and the public will benefit by not having to pay the security fees. The September 11th Security Fee that passengers will not have to pay and air carriers will not have to collect and remit to TSA is estimated to be $600 million. The Aviation Security Infrastructure Fee that air carriers will not incur, and therefore will not remit to TSA, is estimated to be $100 million. This mandatory security fee suspension totaling $700 million is imposed by the Appropriations Act and is not a direct impact of this rulemaking. This rule addresses implementation of the suspension of the fee as it relates to the initial fee imposition requirements provided in 49 CFR part 1510.

Regulatory Flexibility Act Assessment

The Regulatory Flexibility Act (RFA) of 1980 requires that agencies perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. For purposes of the RFA, small entities include small businesses, not-for-profit organizations, and small governmental jurisdictions. Individuals and States are not included in the definition of a small entity. When no notice of proposed rulemaking has first been published, no

such assessment is required for a final rule.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. TSA has assessed the potential effect of this rulemaking and has determined that it will not have a significant impact on foreign commerce and, therefore, has no effect on any trade-sensitive activity.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.''

This rulemaking does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply and TSA has not prepared a statement under the Act.

Executive Order 13132, Federalism

The TSA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications.

Environmental Analysis

The TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (42 U.S.C. 6362). We have determined that this rulemaking is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 49 CFR Parts 1510 and 1511

Accounting, Auditing, Air carriers, Air transportation, Enforcement, Federal oversight, Foreign air carriers, Reporting and recordkeeping requirements, Security measures.

The Amendment

■ In consideration of the foregoing, the Transportation Security Administration amends Chapter XII of Title 49, Code of Federal Regulations, as follows:

SUBCHAPTER A—ADMINISTRATIVE AND PROCEDURAL RULES

PART 1510—PASSENGER CIVIL AVIATION SECURITY SERVICE FEES

■ 1. The authority citation for part 1510 continues to read as follows:

Authority: 49 U.S.C. 44940.

■ 2. From June 1, 2003, through September 30, 2003, suspend §§ 1510.5 and 1510.9(a) through (c), and add a new § 1510.23 to read as follows:

§ 1510.23 Temporary suspension of the September 11th Security Fee.

(a) *Suspension of the September 11th Security Fee.* (1) Notwithstanding 49 CFR 1510.9(a) and (b), a direct air carrier or foreign air carrier must not collect the September 11th Security Fee from any passenger for air transportation sold during the suspension period. For purposes of this section, the suspension period is 12:00 a.m., Eastern Daylight Time, on June 1, 2003, through 11:59 p.m., Eastern Daylight Time, on September 30, 2003. When a passenger purchases a ticket from a direct or foreign air carrier or its agent and the passenger pays in full, including through redemption of frequent flier awards, for the ticket during the suspension period, the carrier must not collect the September 11th Security Fee from the passenger. In addition, notwithstanding 49 CFR 1510.9(c), the direct or foreign air carrier will not incur any obligation to pay the amount of such uncollected fee to TSA.

(2) If a direct or foreign air carrier collects a September 11th Security Fee from a passenger who purchases a ticket during the suspension period, the carrier must refund the fee to the passenger.

(3) Direct and foreign air carriers must continue to collect the September 11th Security Fee on air transportation purchased by passengers through 11:59 p.m., Eastern Daylight Time, on May 31, 2003, even if the flight for which the transportation is purchased is to be operated during the suspension period.

(b) *Tickets reissued during the suspension period.* (1) If a passenger purchases a ticket before the suspension period begins and the carrier reissues a replacement ticket during the suspension period without any changes to the original itinerary, the carrier continues to be responsible for collecting the amount of the September 11th Security Fee that applied upon the initial purchase of the ticket. If, as a result of the reissuance, however, the ticket is repriced during the suspension period, the September 11th Security Fee will not apply to the reissued ticket. Repricing a ticket means a transaction in which the itinerary of a paid ticket is revised due to voluntary changes made by the passenger and the ticket is reissued to determine the new price of the itinerary. Redemption of frequent flyer awards during the suspension period for cabin upgrades does not constitute repricing of the ticket and therefore the fee must continue to be charged. Free upgrades do not constitute repricing and therefore do not result in refund of the fee.

(i) *Example 1.* A passenger purchases a round-trip ticket before the suspension period with two enplanements per one-way trip (for a total of four enplanements) and, due to changes made by the passenger, the carrier reissues the ticket during the suspension period with a revised itinerary of one enplanement per trip (for a total of two enplanements), which results in repricing of the itinerary. The carrier must refund to the passenger the amount of the September 11th Security Fee previously collected when the passenger initially purchased the ticket, and the carrier must not collect the fee for the reissued ticket.

(ii) *Example 2.* If a passenger purchases a ticket before the suspension period and the carrier reissues the ticket during the suspension period because the passenger redeems frequent flier awards in order to obtain an upgrade, the carrier must not refund the September 11th Security Fee it collected when the passenger initially purchased the ticket. Similarly, if the carrier reissues the ticket during the suspension period because the carrier provided a free upgrade, the carrier must not refund the September 11th Security Fee.

(iii) *Example 3.* If a passenger purchases a ticket prior to the suspension period and the travel is already underway during the suspension period and there is a repricing of the ticket, the carrier must not collect the September 11th Security Fee for the changed or unused portion of the itinerary. Therefore, any fee collected for the changed or unused portion of the itinerary must be refunded to the passenger.

(2) *Prepaid air transportation.* In the case of prepaid air transportation (for example, prepaid ticket advice), if the passenger prepays air transportation before the suspension period and the carrier issues a ticket against the prepaid amount during the suspension period, the carrier must collect the September 11th Security Fee for that ticket. However, if a passenger prepays air transportation *during* the suspension period and the carrier issues a ticket against the prepaid amount during or after the suspension period, the carrier must not collect the September 11th Security Fee for that ticket.

(c) *Tickets for passengers on public charter flights.* (1) A direct or foreign air carrier operating a public charter flight must not collect the September 11th Security Fee from the charter operator for any passengers who purchased air transportation (tickets) from the public charter operator and paid in full during the suspension period. Notwithstanding 49 CFR 1510.9(c), the direct or foreign air carrier will not incur any obligation to pay the amount of such fee (not collected from passengers) to TSA.

(d) *Continuing payment of fees to TSA.* (1) Direct and foreign air carriers must pay to TSA any September 11th Security Fees imposed on tickets purchased during the month of May, 2003, no later than June 30, 2003. In addition, any other security fees imposed prior to the suspension period, but not remitted by air carriers to TSA, remain due to TSA during and after the suspension period.

(2) In the case of tickets purchased on public charter flights, direct and foreign air carriers must continue to forward to TSA, in accordance with 49 CFR 1510, any September 11th Security Fees paid by passengers who purchased tickets prior to the beginning of the suspension period. These payments continue to be due to TSA by the last calendar day of June, July, August, and September of 2003.

(i) *Example.* If a passenger purchases a ticket from a public charter operator on May 15, 2003, for a flight that will take place on June 15, 2003, the public charter operator will collect the September 11th Security Fee from the passenger and place it in an escrow account. If the public charter operator provides the escrow funds to the carrier on June 14, 2003, the carrier must pay the fee to TSA by July 31, 2003.

(ii) [Reserved]

(3) A carrier may offset fees refunded to passengers during the suspension period against future amounts of September 11th Security Fees due to TSA in June 2003 and following months under 49 CFR part 1510.

(4) If a carrier does not collect the appropriate fee from a passenger that should have been collected before the suspension period, the air carrier remains responsible for paying the fee to TSA.

(e) *Resumption of imposition of the September 11th Security Fee.* (1) TSA will resume imposition of the September 11th Security Fee beginning at 12 a.m. on October 1, 2003, without any further notice. Therefore, direct and foreign air carriers must resume collecting and paying to TSA the September 11th Security Fee on tickets purchased by passengers beginning on 12 a.m., Eastern Daylight Time, on October 1, 2003, in accordance with the requirements of 49 CFR part 1510. These fees imposed in October 2003 are due to TSA no later than November 30, 2003.

(2) In the case of public charter flights, because public charter operators will not collect September 11th Security Fees from passengers who purchase tickets during the suspension period, there will be instances where the escrow payments that direct or foreign air carriers receive from public charter operators after September 30, 2003, will not include September 11th Security Fees for some or all of the tickets sold for a flight. If the public charter operator did not collect the fee for this reason, the direct or foreign air carrier will not incur any obligation to pay those fees to TSA, notwithstanding 49 CFR part 1510.

(f) *Reporting requirements continue during the suspension period.* In accordance with 49 CFR 1510.17, each direct and foreign air carrier must provide TSA with quarterly reports that provide an accounting of fees imposed, collected, refunded, and remitted to TSA. If a carrier collects no fees during the suspension period, the carrier must submit the required report showing zeros in the appropriate fields in the report. The Bureau of Transportation Statistics collects such data for TSA. The Bureau website address for reporting the data is *http://www.bts.gov/oai/tsa/.* For further information on these reporting requirements, air carriers may also contact Ms. Nancy Sharpe, Data Administrator, Bureau of Transportation Statistics, Office of Airline Information, K–14, 400 Seventh Street, SW., Room 4125, Washington, DC 20590, phone: 202–366–2261, fax: 202–366–3383.

(g) *Travel involving more than one carrier.* For purposes of 49 CFR part 1510, a direct air carrier or foreign air carrier that provides or offers to provide air transportation is considered to be the selling carrier. If a passenger's air transportation includes travel on two or more carriers, or if the passenger's air transportation is otherwise on an aircraft not operated by the selling carrier, the selling carrier is responsible for paying the September 11th Security Fee applicable to the air transportation.

PART 1511—AVIATION SECURITY INFRASTRUCTURE FEE

■ 3. The authority citation for part 1511 continues to read as follows:

Authority: 49 U.S.C. 44901 and 44940.

■ 4. From June 1, 2003, through September 30, 2003, suspend §§ 1511.5(a) through (c) and 1511.7(b), and add a new § 1511.15 to read as follows:

§ 1511.15 Temporary Suspension of the ASIF.

(a) Notwithstanding 49 CFR 1511.5 (a) through (c) and 1511.7(b), an air carrier or foreign air carrier engaged in air transportation will not incur any obligation to make payments to TSA for the months of the suspension period that otherwise would be required under 49 CFR 1511.7(b) to be paid in July, August, September, and October of 2003. Payment due under 49 CFR 1511.7(b) for May of 2003 remains due by June 30, 2003. Any other ASIF incurred by an air carrier or foreign air carrier prior to the suspension period, but not remitted to TSA, continues to be due to TSA during and after the suspension period.

(b) TSA will resume imposition of the ASIF beginning October 1, 2003, without any further notice. Therefore, each air carrier and foreign air carriers must resume making payments to TSA under 49 CFR part 1511, beginning with the payment due under 49 CFR 1511.7(b) no later than November 30, 2003.

Issued in Arlington, VA, on May 15, 2003.

James M. Loy,

Administrator.

[FR Doc. 03–12775 Filed 5–19–03; 10:52 am]

BILLING CODE 4910–62–P

Proposed Rules

Federal Register
Vol. 68, No. 98
Wednesday, May 21, 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 THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 11 and 16

[Docket No. 03–09]

RIN 1557–AC12

Reporting and Disclosure Requirements for National Banks With Securities Registered Under the Securities Exchange Act of 1934; Securities Offering Disclosure Rules

AGENCY: Office of the Comptroller of the Currency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to revise its regulations to reflect amendments to the Securities Exchange Act of 1934 (Exchange Act) made by the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley Act). These amendments to the Exchange Act give the OCC the authority to administer and enforce a number of the Sarbanes-Oxley Act's new reporting, disclosure, and corporate governance requirements with respect to national banks that have a class of securities registered under the Exchange Act. We are also proposing to make conforming revisions to our rules which prescribe securities offering disclosure rules for national banks that issue securities that are not subject to the registration requirements of Securities Act of 1933.

DATES: Comments must be received by June 20, 2003.

ADDRESSES: Written comments should be submitted to the Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Attention: Docket No. 03–09, Public Information Room, Mailstop 1–5, Washington, DC 20219. Due to disruptions in paper mail delivery in the Washington, DC area, commenters are encouraged to submit comments by fax or electronic mail when possible. Comments may be sent by fax to (202) 874–4448 or by electronic mail to *regs.comments@occ.treas.gov.* Comments may be inspected and photocopied at the OCC's Public Reference Room, 250 E Street, SW., Washington, DC. You may make an appointment to inspect comments by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: Mary Ann Nash, Counsel, 202–874–5090; or Martha Clarke, Acting Assistant Director, Legislative & Regulatory Activities Division, 202–874–5090.

SUPPLEMENTARY INFORMATION:

Background

Section 12(i) of the Exchange Act vests the OCC with the powers, functions, and duties otherwise vested with the Securities and Exchange Commission (SEC) to administer and enforce certain provisions of the Exchange Act as they apply to national banks that have a class of securities registered under the Exchange Act (registered national banks).[1]

On July 30, 2002, President Bush signed into law the Sarbanes-Oxley Act.[2] Prior to the enactment of the Sarbanes-Oxley Act, section 12(i) gave the OCC the authority to administer and enforce sections 12, 13, 14(a), 14(c), 14(d), 14(f), and 16 of the Exchange Act. The Sarbanes-Oxley Act amends some of those sections of the Exchange Act to impose additional requirements and, as a result, the OCC will administer and enforce these new requirements as they apply to registered national banks. In addition, the Sarbanes-Oxley Act amends section 12(i) to add new sections of the securities laws to the list of provisions that are enforced and administered by the OCC.

Titles III and IV of the Sarbanes-Oxley Act include a number of provisions that are designed to improve the corporate governance and financial disclosures of issuers that have a class of securities registered under sections 12(b) or 12(g) of the Exchange Act or that are required to file periodic reports with the SEC under section 15(d) of the Exchange Act (public issuers). All registered national banks are public issuers for purposes of the law.

Pursuant to the amendments to section 12(i) made by the Sarbanes-Oxley Act, the OCC administers and enforces the following new provisions of the Act with respect to registered national banks in addition to any new requirements that were added through amendments to sections of the Exchange Act that were enforced by the OCC prior to the enactment of the Sarbanes-Oxley Act.

- Section 301[3] establishes certain oversight, independence, funding, and other requirements for the audit committees of public issuers. It requires the SEC to issue implementing rules that prohibit any national securities exchange or national securities association from listing the securities of an issuer that fails to comply with these audit committee requirements. The SEC issued final rules to implement section 301 on April 9, 2003.[4] The rules took effect on April 25, 2003.
- Section 302 requires the SEC to adopt rules that require the principal executive officers and principal financial officers of public issuers to include certain certifications in the issuer's annual and quarterly reports filed under the Exchange Act. The SEC issued final rules implementing this section on August 29, 2002.[5] The rules took effect on the same day.

[1] Under section 12(i), the OCC and the other Federal banking agencies have the power to issue rules that are necessary to carry out their functions under the Exchange Act. These rules are required to be substantially similar to the SEC's rules unless a Federal banking agency determines that substantially similar regulations with respect to the insured depository institutions that it supervises are not necessary or appropriate in the public interest or for the protection of investors and the agency publishes its findings in the **Federal Register** within 60 days after the SEC issues regulations.

[2] Public Law 107–204, 116 Stat. 745 (July 30, 2002).

[3] U.S.C. 78j–1(m).

[4] 68 FR 18788 (April 16, 2003).

[5] 67 FR 57275 (Sept. 9, 2002). Section 906 of the Sarbanes-Oxley Act is a criminal statute and includes another certification requirement that is separate from the certification requirements of section 302. Section 906 provides that all periodic reports that contain financial statements and that are filed by public issuers under sections 13(a) or 15(d) of the Exchange Act must include a written certification by the chief executive officer and chief financial officer (or equivalent) that (1) the report complies with the requirements of section 13(a) or 15(d) of the Exchange Act, and (2) the information contained in the periodic report fairly presents, in all material respects, the financial condition and results of operations of the issuer. Section 906 became effective on July 30, 2002, and persons who knowingly or willfully make false certifications are subject to specified criminal penalties. See 18 U.S.C. 1350. The plain language of section 906 specifically refers to periodic reports filed by a public issuer with the SEC although Section 12(i) of the Exchange Act requires bank issuers to file periodic reports with their banking regulator.

Continued

• Section 303 requires the SEC to issue rules prohibiting the officers and directors of public issuers, and persons acting under their direction, from fraudulently influencing, coercing, manipulating, or misleading the issuer's independent auditor for purposes of rendering the issuer's financial statements materially misleading. The SEC published proposed rules implementing this section on October 24, 2002.[6] On April 24, 2003, the SEC voted to adopt final rules, which will take effect 30 days after publication in the **Federal Register**.[7]

• Section 304 requires the chief executive officer and chief financial officer of public issuers to reimburse the issuer for certain compensation and profits received if the issuer is required to restate its financial reports due to material noncompliance, as a result of misconduct, with any financial reporting requirements under the Federal securities laws. The requirements of section 304 took effect on July 30, 2002. No implementing regulations are required.

• Section 306(a) prohibits the directors and executive officers of any public issuer of equity securities from purchasing, selling, or transferring any equity security acquired by the director or executive officer in connection with his or her service as a director or executive officer during any ''blackout period'' with respect to the security. A ''blackout period'' generally is a period of three consecutive business days during which trading in the issuer's securities is suspended for 50% or more of the beneficiaries of the issuer's individual account plans. The SEC adopted final regulations pursuant to section 306(a) on January 26, 2003. [8] The rules took effect on the same day.

• Section 401(b) requires the SEC to issue rules that prohibit issuers from including misleading *pro forma* financial information in their reports under the securities laws or in any public release. Issuers also must reconcile any *pro forma* financial information included in such filings or public releases with the issuer's financial statements prepared in accordance with generally accepted accounting principles (GAAP). The SEC has issued final implementing regulations,[9] which apply to releases and disclosures made after March 28, 2003, and to annual and quarterly reports filed with respect to fiscal periods ending after March 28, 2003.

• Section 404 mandates that the SEC issue rules that require all annual reports filed under section 13(a) or 15(d) of the Exchange Act to include certain statements and assessments related to the issuer's internal control structures and procedures for financial reporting.[10] There is no statutory deadline for adoption of final rules implementing the requirements of section 404. The SEC published a proposed rule on October 30, 2002.[11]

• Section 406 mandates that the SEC adopt rules that require public issuers to (1) disclose in their periodic reports filed under the Exchange Act whether the issuer has adopted a code of ethics for its senior financial officers and, if not, the reasons why such a code has not been adopted; and (2) promptly disclose on Form 8–K any change to, or waiver of, the issuer's code of ethics. The SEC published a final rule implementing this section on January 31, 2003. [12] The requirements of that rule took effect on March 3, 2003.

• Section 407 mandates that the SEC adopt rules that require public issuers to disclose in their periodic reports filed under the Exchange Act whether the audit committee of the issuer includes at least one financial expert and, if not, the reasons why the audit committee does not include such an expert. The SEC published a final rule implementing this section on January 31, 2003.[13] The requirements of that rule took effect on March 3, 2003.

Description of the Proposed Rule

Part 11 of the OCC's regulations, entitled ''Securities Exchange Act Disclosure Rules,'' currently implements the requirements of section 12(i) by applying to registered national banks, by means of cross-reference, the SEC's regulations implementing the reporting and disclosure provisions of sections 12, 13, 14(a), 14(c), 14(d), 14(f), and 16 of the Exchange Act. Part 11 requires national banks to file with the OCC any reports or forms required by the SEC's regulations.

We are proposing to amend part 11 to reflect the new provisions of the Sarbanes-Oxley Act that the OCC is required to administer and enforce with respect to registered national banks. Accordingly, the proposal revises § 11.2 to cross-reference new subsection 10A(m) of the Exchange Act and sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act. The effect of the proposal is to require registered national banks to comply with the rules issued by the SEC pursuant to those statutory provisions.

Part 16 of the OCC's regulations, entitled ''Securities Offering Disclosure Rules,'' sets forth rules governing the offer and sale of securities by national bank issuers that are not subject to the registration and reporting requirements of the Securities Act of 1933.[14] Section 16.20 of the regulation mirrors the requirements of section 15(d) of the Exchange Act [15] and requires each national bank that files a registration statement that has been declared effective by the OCC pursuant to part 16 to file the current and periodic reports required by section 13 of the Exchange Act [16] in accordance with the SEC's regulation 15D, as if the securities covered by the registration statement were securities registered pursuant to section 12 of the Exchange Act.

The proposal revises section 16.20 to reference sections 10A(m) and 13 of the Exchange Act and to cross-reference the requirements of the revised § 11.2(a)(1)(ii). The effect of the proposal is to require banks filing registration statements pursuant to part 16 to comply with certain provisions of the Exchange Act, including new subsection 10A(m), and those sections of the Sarbanes-Oxley Act that are directly applicable to section 15(d) filers and that are administered and enforced by the OCC with respect to registered national banks. The proposal is thus consistent with the objectives of part 16, which we adopted in order to promote generally comparable treatment between national bank issuers of securities and other issuers that are directly subject to section 15(d).[17]

Sections 11.2 and 16.20 currently cross-reference both the statutory provisions that the OCC has the authority to administer and enforce and the SEC's regulations implementing

Because section 906 is a criminal statute, the Department of Justice has jurisdiction to determine whether the requirements of the statute apply to issuers that file their periodic reports with the Federal banking agencies rather than the SEC. Until the Department of Justice clarifies this issue, national bank issuers should continue to file their section 906 certifications as part of the periodic reports that they file with the OCC.

[6] 67 FR 65325 (Oct. 24, 2002).

[7] *See* SEC Press Release 2003–51 (Apr. 24 2003). The publication of this rule in the **Federal Register** is pending.

[8] 68 FR 4338 (Jan. 28, 2003).

[9] 68 FR 4820 (Jan. 30, 2003).

[10] Section 404 also requires the registered public accounting firm that prepares or issues the audit report for the issuer's annual report to attest to, and report on, the issuer's assessment of its internal control structures and procedures for financial reporting.

[11] 67 FR 66207 (Oct. 30, 2002).

[12] 68 FR 5110 (Jan. 31, 2003).

[13] 68 FR 5110 (Jan. 31, 2003).

[14] As of December 31, 2002, there were approximately 20 national banks subject to the requirements of part 16.20.

[15] 15 U.S.C. 78o(d).

[16] 15 U.S.C. 78m.

[17] *See* 59 FR 54789, 54790 (Nov. 2, 1994) (preamble to most recent revisions to part 16).

those provisions. The proposed rule eliminates cross-references to the specific sections of the SEC's regulations in favor of a more general reference to the rules, regulations, and forms adopted by the SEC pursuant to the listed statutory provisions. The existing statutory cross-references in parts 11 and 16 are adequate, in our judgment, to alert registered national banks and national banks required by part 16 to make filings pursuant to section 15(d) of the Exchange Act of the requirements that apply to them and to prompt them to consult the appropriate SEC regulations.

National banks may also monitor the **Federal Register**, the SEC's Web site,[18] and other appropriate publications to ensure that they are aware of developments that affect them. If the rules or forms issued by the SEC under these sections require issuers to file documents with the SEC, national banks must make such filings with the OCC in accordance with the provisions of part 11 or part 16, as appropriate.

Request for Comments

The OCC solicits comment on all aspects of the proposed rule. Commenters who suggest that the OCC modify the requirements of the SEC's rules, regulations, and forms for registered national banks should support their request by demonstrating how such a modification would satisfy the standard in section 12(i); that is, with respect to registered national banks, that the SEC's rules, regulations or forms are not necessary or appropriate in the public interest or for the protection of investors.

Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, section 722, 113 Stat. 1338, 1471 (November 12, 1999), requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. We invite your comments on how to make this proposal easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the proposed regulation clearly stated? If not, how could the regulation be more clearly stated? Is it appropriate to eliminate specific cross-references in our rules to specific provisions of the SEC's rules?
- Does the proposed regulation contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes to the format would make the regulation easier to understand?
- What else could we do to make the regulation easier to understand?

Regulatory Analysis

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b) (RFA), the regulatory flexibility analysis otherwise required under section 604 of the RFA is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** along with its rule. As of December 31, 2002, there were approximately 25 national banks that had a class of securities registered under sections 12(b) or 12(g) of the Exchange Act and therefore subject to the proposed amendments to part 11. As of the same date, only 15 of these institutions have assets of less than $100 million and are considered small entities for purposes of the RFA. *See* 5 U.S.C. 601; 13 CFR 121.201. As of December 31, 2002, there were approximately 20 national banks subject to part 16 reporting requirements.

Based on the relatively small number of national banks affected by the proposed revisions to parts 11 and 16 of our rules, the OCC hereby certifies that this proposal will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not needed.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995, the OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The information collection requirements contained in this notice of proposed rulemaking have been submitted to OMB for review and approval under OMB Control Number 1557–0106 ((MA)—Securities Exchange Act Disclosure Rules—12 CFR part 11) and OMB Control Number 1557–0120 ((MA)—Securities Offering Disclosure Rules—12 CFR part 16).

The OCC is proposing to revise 12 CFR part 11 to reflect amendments to section 12(i) of the Securities Exchange Act of 1934 (Exchange Act) made by the Sarbanes-Oxley Act of 2002. These amendments to section 12(i) give the OCC the authority to administer and enforce a number of the Sarbanes-Oxley Act's new reporting, disclosure, and corporate governance requirements with respect to national banks that have a class of securities registered under the Exchange Act.

The OCC is also proposing to make conforming revisions to 12 CFR part 16, which prescribes securities offering disclosure rules for national banks that issue securities that are not subject to the registration requirements of the Securities Act of 1933. The proposed rule amends section 16.20 to include references to the requirements of the Sarbanes-Oxley Act that the OCC is authorized to administer and enforce.

12 CFR part 11 incorporates by reference the applicable SEC regulations. The OCC does not maintain its own forms for collecting information and instead requires reporting banks to file SEC forms. Part 11 ensures that publicly owned national banks provide adequate information about their operation to current and potential shareholders, depositors, and to the public. The OCC reviews the information to ensure that it complies with Federal law and makes public all information required to be filed under these rules. Investors, depositors, and the public use the information to make informed investment decisions.

Title: (MA)—Securities Exchange Act Disclosure Rules (12 CFR part 11).

OMB Number: 1557–0106.

Form Numbers: SEC Forms 3, 4, 5, 8–K, 10, 10–K, 10–Q, Schedules 13D, 13G, 14A, 14B, and 14C.

Estimated number of respondents: 75.

Estimated number of responses: 456.

Average hours per response: Varies.

Estimated total burden hours: 4,156.5 hours.

The likely respondents: National banks, individuals.

The information collection requirements in 12 CFR part 16 enable the OCC to perform its responsibilities relating to offerings of securities by national banks by providing the investing public with facts about the condition of a bank, the reasons for raising new capital, and the terms of securities offerings. Part 16 generally requires banks to conform to the Securities and Exchange Commission rules.

Title: (MA)—Securities Offering Disclosure Rules (12 CFR part 16).

OMB Number: 1557–0120.

Description: Sections 16.3 and 16.5 require a national bank to file its

[18] See *http://www.sec.gov.*

registration statement with the OCC. Section 16.4 requires a national bank to submit certain communications not deemed an offer to the OCC. Section 16.5 provides an exemption for items that satisfy the requirements of SEC Rule 144, which, in turn, requires certain filings. Section 16.6 requires a national bank to file documents with the OCC and to make certain disclosures to purchasers in sales of nonconvertible debt. Section 16.7 requires a national bank to file a notice with the OCC. Section 16.8 requires a national bank to file offering documents with the OCC. Section 16.15 requires a national bank to file a registration statement and sets forth content requirements for the registration statement. Section 16.17 requires a national bank to file four copies of each document filed under part 16, and requires filers of amendments or revisions to underline or otherwise indicate clearly any changed information. Section 16.18 requires a national bank to file an amended prospectus when the information in the current prospectus becomes stale, or when a change in circumstances makes the current prospectus incorrect. Section 16.19 requires a national bank to submit a request to the OCC if it wishes to withdraw a registration statement, amendment, or exhibit. Section 16.20 requires a national bank to file current and periodic reports as required by sections 10A and 13 of the Exchange Act and those provisions of the Sarbanes-Oxley Act that the OCC is authorized to enforce. Section 16.30 requires a national bank to include certain elements and follow certain procedures in any request to the OCC for a no-objection letter.

Estimated number of respondents: 73.

Estimated number of responses: 73.

Average hours per response: Varies.

Estimated total burden hours: 2,275 hours.

Likely respondents: National banks.

Comments

The OCC invites comments on:

(1) Whether the collection of information contained in the proposed rulemaking is necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(2) The accuracy of the OCC's estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected:

(4) Ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology; and

(5) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

OMB is required to make a decision concerning these collections of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Comments should be sent to:

Jessie Dunaway, Clearance Officer, Office of the Comptroller of the Currency, Legislative and Regulatory Activities Division, Attention: 1557–0106 & 1557–0120, 250 E Street, SW., Mailstop 8–4, Washington, DC, 20219. Due to delays in delivery of paper mail in the Washington area, commenters are encouraged to submit comments by fax or email. Comments may be sent by fax to 202–874–4448 or by e-mail to *regs.comments@occ.treas.gov.*

Joseph F. Lackey, Jr., Desk Officer, Office of Information and Regulatory Affairs, Attention: 1557–0106 & 1557–0120, Office of Management and Budget, Room 10235, Washington, DC 20503. Comments may also be sent by e-mail to *jlackeyj@omb.eop.gov.*

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, or $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Reform Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determines that this proposal will not result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, or $100 million or more in any one year. Accordingly, we have not prepared a budgetary impact statement.

Executive Order 12866

The Comptroller of the Currency has determined that this proposal does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

List of Subjects

12 CFR Part 11

Confidential business information, National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 16

National banks, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the OCC proposes to amend parts 11 and 16 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 11—SECURITIES EXCHANGE ACT DISCLOSURE RULES

1. The authority citation for part 11 is revised to read as follows:

Authority: 12 U.S.C. 93a; 15 U.S.C. 78*l*, 78m, 78n, 78p, 78w, 7241, 7242, 7243, 7244, 7261, 7262, 7264 and 7265.

2. Section 11.2 is revised to read as follows:

§ 11.2 Reporting requirements for registered national banks.

(a) *Filing, disclosure and other requirements—(1) General.* Except as otherwise provided in this section, a national bank whose securities are subject to registration pursuant to section 12(b) or section 12(g) of the Securities Exchange Act of 1934 (the 1934 Act) (15 U.S.C. 78*l*(b) and (g)) shall comply with the rules, regulations, and forms adopted by the Securities and Exchange Commission (Commission) pursuant to—

(i) Sections 10A(m), 12, 13, 14(a), 14(c), 14(d), 14(f) and 16 of the 1934 Act (15 U.S.C. 78f(m), 78l, 78m, 78n(a), (c), (d) and (f), and 78p); and

(ii) Sections 302, 303, 304, 306, 401(b), 404, 406 and 407 of the Sarbanes-Oxley Act of 2002 (codified at 15 U.S.C. 7241, 7242, 7243, 7244, 7261, 7262, 7264 and 7265).

(2) [Reserved]

(b) *References to the Commission.* Any references to the ''Securities and Exchange Commission'' or the ''Commission'' in the rules, regulations and forms described in paragraph (a)(1) of this section shall with respect to securities issued by registered national banks be deemed to refer to the OCC unless the context otherwise requires.

PART 16—SECURITIES OFFERING DISCLOSURE RULES

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

Authority: 12 U.S.C. 1 *et seq.* and 93a.

2. Section 16.20 is revised to read as follows:

§ 16.20 Compliance with requirements of the securities laws.

(a) Each bank that files a registration statement that has been declared effective pursuant to this part shall comply with the rules, regulations, and forms adopted by the Commission pursuant to sections 10A(m) and 13 of the Exchange Act and those provisions of the Sarbanes-Oxley Act of 2002 that are listed in § 11.2(a)(1)(ii) of this chapter as if the securities covered by the registration statement were securities registered pursuant to section 12 of the Exchange Act (15 U.S.C. 78*l*).

(b) Suspension of the duty to file current and periodic reports under this section will be in accordance with section 15(d) of the Exchange Act (15 U.S.C. 78o(d)).

(c) Paragraph (a) of this section does not apply if the bank is a subsidiary of a one-bank holding company, the financial statements of the bank and the parent bank holding company are substantially the same, and the bank's parent bank holding company files current and periodic reports pursuant to section 13 of the Exchange Act (15 U.S.C. 78m).

(d) Paragraph (a) of this section does not apply if the bank files the registration statement in connection with a merger, consolidation, or acquisition of assets subject to 12 CFR 5.33(e)(8).

Dated: April 29, 2003.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 03–12259 Filed 5–20–03; 8:45 am]

BILLING CODE 4810–33–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 613, 614, and 618

RIN 3052–AC06

Eligibility and Scope of Financing; Loan Policies and Operations; General Provisions; Credit and Related Services

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA, we, our) proposes to amend regulations governing domestic and international lending, certain intra-Farm Credit System (FCS or System) agreements concerning similar entity participation transactions, provisions of general financing agreements, and related services. We are proposing amendments to conform our regulations to recent changes in the Farm Credit Act of 1971, as amended (Act), to address comments we received requesting that the FCA reduce regulatory burden, ensure compliance with the Act, and clarify certain regulations.

DATES: Please send your comments to the FCA by June 20, 2003.

ADDRESSES: You may send comments by electronic mail to *''reg-comm@fca.gov,''* through the Pending Regulations section of FCA's Web site, *''http://www.fca.gov,''* or through the government-wide *''http://www.regulations.gov''* portal. You may also send comments to Robert E. Donnelly, Acting Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or by facsimile to (703) 734–5784. You may review copies of all comments we receive at our office in McLean, Virginia.

FOR FURTHER INFORMATION CONTACT:

Dale Aultman, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498; TTY (703) 883–4434; or

James Morris, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Objectives

The primary objectives of our proposal are to conform our regulations to recent statutory amendments and to reduce regulatory burden imposed on System institutions, while ensuring compliance with the Act and FCA regulations. We expect our amendments to improve the flow of credit to System customers, make similar entity participation transactions less burdensome, and help ensure compliance with the Act and FCA regulations.

II. Background

We are proposing these amendments for three reasons: (1) To address comments we received in response to our request that the public identify ways we could reduce regulatory burden;[1] (2) to conform our regulations to the Act, as amended by the Farm Security and Rural Investment Act (Pub. L. 107–171) (2002 Farm Bill or FSRIA); and (3) to help ensure that FCS association lending complies with the Act and our regulations.

A. Reducing Regulatory Burden

In response to our regulatory burden solicitation discussed above, CoBank, ACB (CoBank), requested that we address several issues concerning regulations governing title III banks.

1. Domestic Title III Lending

CoBank requested that we amend § 613.3100 that pertains to eligibility and scope of financing for domestic borrowers because § 613.3100(c)(1) appears to prohibit loans to subsidiaries of subsidiaries of certain eligible borrowers. Because the Act does not prohibit financing subsidiaries or other entities in which an eligible utility or an eligible cooperative has an ownership interest, we propose to clarify our regulations to permit a title III bank to provide limited financing to such entities. The financing provided shall not exceed the percentage of ownership attributable to the eligible cooperative or utility, multiplied by the value of the total assets of such entity.

In addition, CoBank asked that we amend § 613.3100(c)(2) to clarify that it authorizes financing activities broader than those permitted under the Rural Electrification Act. The legislative history of the Farm Credit Act of 1971, as amended, clearly demonstrates that Congress intended for banks for cooperatives (BCs) and agricultural credit banks (ACBs) to provide financing for ''non act'' purposes.[2] This legislative history is discussed in the preamble proposing the existing rule. *See* 61 FR 42092, August 13, 1996. We propose amending this section to clarify that a subsidiary that is eligible to borrow under § 613.3100(c)(1)(iii) may also obtain financing for energy-related or public utility-related purposes that cannot be financed by the lenders referred to in § 613.3100(c)(1)(ii). Operation of a licensed cable television utility is one example of such purpose.

Since the legislative history of the relevant language of section 3.8 of the Act indicates that the permissible ''non act'' purposes usually involve providing of communication services such as cable television facilities and cellular radio facilities, the permissible purposes do not appear to be restricted to cable television or communication services.

[1] On August 18, 1998, we published a document in the **Federal Register** inviting the public to identify existing FCA regulations and policies that impose unnecessary burdens on the System. *See* 63 FR 44176.

[2] ''Non act'' purpose means a purpose that is ineligible for financing by the Rural Utilities Service (RUS) or the Rural Telephone Bank (RTB) as described in paragraph § 613.3100(c)(1)(ii).

However, because title III generally authorizes lending to those that provide energy or utility services, it is reasonable to interpret section 3.8 of the Act to authorize financing for ''non act'' purposes, provided they are energy-related or public utility-related.

2. Related Services

CoBank also requested that we clarify that it is able to provide the same related services as Farm Credit Banks (FCBs) and BCs. We amended §§ 618.8000 and 618.8005 to clarify that CoBank has the same authority to provide related services under title I of the Act as FCBs and the same authorities to provide related services under title III of the Act as BCs.

B. Conforming FCA Regulations To Reflect Recent Amendments to the Act

Enactment of the FSRIA amended the Act with respect to:

(1) International lending by BCs, and (2) similar entity transactions.

1. International Lending

FSRIA amended section 3.7 of the Act to authorize a bank operating under title III of the Act to finance certain international transactions involving ''agricultural supplies.'' This section formerly authorized a bank operating under title III of the Act to finance certain transactions involving ''farm supplies.'' After the amendment of section 3.7, CoBank can finance certain transactions involving ''agricultural supplies,'' which is statutorily defined to include a farm supply, agriculture-related processing equipment, agriculture-related machinery, and other capital goods related to the storage or handling of agricultural commodities or products. Because of this amendment, the definition of ''farm supplies'' in part 613 no longer defines the limit of CoBank's authority. The proposed rule makes conforming changes to part 613 to add a definition of ''agricultural supply.''

2. Similar Entity Participations

FSRIA also amended sections 3.1(11)(B) and 4.18A of the Act so that one type of FCS institution no longer needs approval from another type of FCS institution when it participates with a non-FCS lender in certain loans to a similar entity.[3] These amendments to the Act have eliminated the statutory basis for some approvals required by existing FCA regulations.

However, the FSRIA did not amend the requirement in section 3.1 for approval to finance certain similar entities having System loan commitments or who are System customers. The proposed regulation would codify the remaining approval requirement. We note that System institutions may enter into agreements on such terms and conditions as they choose, including, where appropriate, annual agreements.

C. Ensure Loan Making Complies With the Act and Regulations

During examinations of some System institutions, we have identified loans that fail to comply with various requirements of the Act and our regulations. The Act provides FCA broad authorities and remedies with respect to such ''ineligible'' loans. For example, FCA may require a direct lender association to divest itself of the loan or cure the ineligibility. In appropriate cases, FCA may use its cease and desist or civil money penalty authorities. However, a review of general financing agreements (GFAs) between FCBs and the ACB and their direct lender associations has revealed that, while most GFAs address ineligible loans in some fashion, they do not all expressly prohibit funding ineligible loans.

Without in any way limiting FCA's other authorities or remedies under the Act, the proposed regulations mandate that the GFA between the funding bank and the direct lender association expressly require that the calculation of financing available be based solely on loans that comply with the Act and FCA regulations.

III. Section-by-Section Analysis

Subpart B—Financing for Banks Operating Under Title III of the Farm Credit Act

Sections 613.3100(b)(2)(ii) and 613.3100(c)(1)(v)—Domestic Lending

We propose to clarify that a bank operating under title III may finance a subsidiary or other entity in which eligible cooperatives or certain eligible utilities have an ownership interest. Proposed § 613.3100(b)(2)(ii) permits a title III bank to provide limited financing to a subsidiary or other entity in which an eligible cooperative has an ownership interest. Proposed § 613.3100(c)(1)(v) permits a title III bank to provide limited financing to a subsidiary or other entity in which certain eligible utilities have an ownership interest. If the eligible cooperative or eligible utility owns less than 50 percent of the entity, then the financing provided may not exceed the percentage of ownership attributable to the eligible cooperative or utility, multiplied by the value of the total assets of such entity.

Section 613.3100(c)(2)—Purposes for Financing Electric and Telecommunication Utilities

We propose to clarify that a BC or ACB may provide financing for subsidiaries of cooperatives or other entities that are eligible under § 613.3100(c)(1)(ii) for energy-related or public utility-related purposes even if such purposes would be ineligible for financing by the RUS or the RTB. Section 3.8(b)(1)(A) of the Act authorizes BCs and ACBs to finance rural utilities that are eligible to borrow from the RUS or RTB, and their subsidiaries. Although the Rural Electrification Act prohibits the RUS or RTB from financing the activities of certain subsidiaries, section 3.8(b)(1)(A) of the Act expressly authorizes a BC or ACB to extend credit to the same subsidiaries. As FCA discussed in its preamble when the present § 613.3100 was proposed in 1996, the legislative history makes it clear the present language of section 3.8 of the Act was intended to authorize title III banks to finance activities that are ineligible for RUS or RTB loans. *See* 61 FR 42092, August 13, 1996. Because the present language of § 613.3100(c)(2) could be narrowly read to limit such financing to subsidiaries that ''operate a licensed cable television utility,'' FCA is now proposing an amendment to clarify that banks operating under title III may provide such financing for any energy-related or public utility-related purpose. We believe it is important for the System to be able to finance these operations that provide valuable services to rural consumers and essential revenues for rural utility systems.

Section 613.3200—International Lending

We propose to conform our regulations to recent changes in section 3.7 of the Act made by FSRIA that authorize a bank operating under title III of the Act to finance certain international transactions involving ''agricultural supplies.'' We propose to amend § 613.3200(a) by adding a definition of ''agricultural supply.'' The proposed definition of ''agricultural supply'' in § 613.3200(a)(1) includes a farm supply, agriculture-related processing equipment, agriculture-related machinery, and other capital

[3] ''Similar entity'' means a party that is ineligible for a loan from a Farm Credit bank or association, but has operations that are functionally similar to the activities of eligible borrowers in that a majority of its income is derived from, or a majority of its assets are invested in, the conduct of activities that are performed by eligible borrowers.

goods related to the storage or handling of agricultural commodities or products. The term ''farm supply,'' which is included in the new definition of ''agricultural supply,'' is defined in § 613.3200(a)(2).

Subpart C—Similar Entity Authority Under Sections 3.1(11)(B) and 4.18A of the Act

Section 613.3300—Participations and Other Interests in Loans to Similar Entities

We propose to amend our regulations to conform them to changes the 2002 Farm Bill made in sections 3.1(11)(B) and 4.18A of the Act regarding similar entity transactions. Because of these changes, FCS institutions are no longer required to obtain the approvals now required by present § 613.3300(d). Although the FSRIA removed the statutory provisions that were the basis of the § 613.3300(d) approval requirements, it did not remove the statutory requirement that a bank operating under title III not participate in a loan to a similar entity under section 3.1 if the similar entity has a loan or loan commitment outstanding with an FCB or association, unless agreed to by the FCB or association. Therefore, while we propose deleting present § 613.3100(d) to reflect the elimination of other statutory approval requirements, we propose adding a new section to reflect this statutory requirement. Proposed § 613.3100(d) requires a bank operating under title III to obtain the agreement of an FCB or association in order to participate in a loan to a similar entity under section 3.1 if the similar entity has a loan, or a loan commitment outstanding, with the FCB or association. System institutions may structure the terms and conditions of the agreement to accommodate their specific situations. For example, they may grant approvals on an annual basis allowing similar entity participations in their chartered territory.

Subpart C—Bank/Association Lending Relationship

Section 614.4125—Funding and Discount Relationships Between Farm Credit Banks or Agricultural Credit Banks and Direct Lender Associations

Direct lender associations may not make or hold any loan that does not comply with the Act and FCA regulations, including, without limitation, part 613. We propose to amend § 614.4125(a) to mandate that each GFA require that the calculation of financing available be based solely on loans that are in compliance. Without limiting FCA's other authorities or remedies, proposed § 614.4125(a) would expressly state that if financing under a GFA is based on a loan that FCA determines does not comply with the Act and these regulations, then the financing available must be recalculated without that loan. We emphasize that the remedies described in this section do not limit our other authorities or remedies under the Act.

Subpart A—Related Services

Section 618.8000—Definitions and Section 618.8005—Eligibility

We propose to amend §§ 618.8000(b) and 618.8005(c) to clarify that ACBs have the same authority to offer related services under title III of the Act as BCs, and the same authority to offer related services under title I of the Act as FCBs. Proposed § 618.8000(b) deletes the phrase, ''that is appropriate to the recipient's on-farm, aquatic, or cooperative operations'' in order to eliminate any possible confusion about limitations on related services offerings under title III. Similarly, proposed § 618.8005(c) deletes the phrase, ''appropriate to cooperative operations.''

In addition, proposed § 618.8005(a) adds the phrase ''appropriate to on-farm and aquatic operations'' to the existing paragraph, in order to reflect the statutory limitation on related services offered under title I.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects

12 CFR Part 613

Advertising, Aged, Agriculture, Banks, banking, Civil rights, Credit, Fair housing, Marital status discrimination, Religious discrimination, Rural areas, Sex discrimination, Signs and symbols.

12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 618

Agriculture, Archives and records, Banks, banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

For the reasons stated in the preamble, parts 613, 614, and 618 of chapter VI, title 12 of the Code of Federal Regulations, are proposed to be amended as follows:

PART 613—ELIGIBILITY AND SCOPE OF FINANCING

1. The authority citation for part 613 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.9, 1.10, 1.11, 2.2, 2.4, 2.12, 3.1, 3.7, 3.8, 3.22, 4.18A, 4.25, 4.26, 4.27, 5.9, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2017, 2018, 2019, 2073, 2075, 2093, 2122, 2128, 2129, 2143, 2206a, 2211, 2212, 2213, 2243, 2252).

Subpart B—Financing for Banks Operating Under Title III of the Farm Credit Act

2. Amend § 613.3100 by revising paragraphs (b)(2)(ii), (c)(1)(v), and (c)(2) to read as follows:

§ 613.3100 Domestic lending.

(b) * * *

* * * * *

(2) * * *

* * * * *

(ii) Any legal entity in which an eligible cooperative (or a subsidiary or other entity in which an eligible cooperative has an ownership interest) has an ownership interest, *provided that* if the percentage of ownership attributable to the eligible cooperative is less than 50 percent, financing may not exceed the percentage of ownership attributable to the eligible cooperative multiplied by the value of the total assets of such entity; or

* * * * *

(c) * * *

* * * * *

(1) * * *

* * * * *

(v) Any legal entity in which an eligible utility under paragraph (c)(1)(ii) of this section (or a subsidiary or other entity in which an eligible utility under paragraph (c)(1)(ii) has an ownership interest) has an ownership interest, *provided that* if the percentage of ownership attributable to the eligible utility is less than 50 percent, financing may not exceed the percentage of ownership attributable to the eligible utility multiplied by the value of the total assets of such entity.

(2) *Purposes for financing.* A bank for cooperatives or agricultural credit bank may extend credit to entities that are

eligible to borrow under paragraph (c)(1) of this section in order to provide electric or telecommunication services in a rural area. A subsidiary that is eligible to borrow under paragraph (c)(1)(iii) of this section may also obtain financing from a bank for cooperatives or agricultural credit bank for energy-related or public utility-related purposes that cannot be financed by the lenders referred to in paragraph (c)(1)(ii), including, without limitation, financing to operate a licensed cable television utility.

* * * * *

3. Amend § 613.3200 to read as follows:

a. Revise paragraph (a); and

b. Remove the words ''farm supplies'' and add in their place, the words ''agricultural supplies'' each place they appear in paragraphs (b) introductory text, (c) introductory text, and (c)(1).

§ 613.3200 International lending.

(a) *Definitions.* For the purpose of this section only the following definitions apply:

(1) *Agricultural supply* includes:

(i) A farm supply; and

(ii) Agriculture-related processing equipment, agriculture-related machinery, and other capital goods related to the storage or handling of agricultural commodities or products.

(2) *Farm supply* refers to an input that is used in a farming or ranching operation.

* * * * *

Subpart C—Similar Entity Authority Under Sections 3.1(11)(B) and 4.18A of the Act

4. Revise § 613.3300(d) to read as follows:

§ 613.3300 Participations and other interests in loans to similar entities.

* * * * *

(d) *Approval by other Farm Credit System institutions.* A bank for cooperatives or agricultural credit bank may not participate in a loan to a similar entity under title III of the Act if the similar entity has a loan or loan commitment outstanding with a Farm Credit Bank or an association chartered under the Act, unless agreed to by the Farm Credit Bank or association.

PART 614—LOAN POLICIES AND OPERATIONS

5. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279c–1, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

Subpart C—Bank/Association Lending Relationship

6. Amend § 614.4125(a) by adding a second sentence to read as follows:

§ 614.4125 Funding and discount relationships between Farm Credit Banks or agricultural credit banks and direct lender associations.

(a) * * * Each general financing agreement must require that the amount of financing available to a direct lender association be based solely on loans that comply with the Act and these regulations. If financing under a general financing agreement is based on a loan that FCA determines does not comply with the Act and these regulations, then the amount of financing available must be reduced by the amount of the ineligible loan.

* * * * *

PART 618—GENERAL PROVISIONS

7. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252).

Subpart A—Related Services

8. Amend § 618.8000(b) by revising the first sentence to read as follows:

§ 618.8000 Definitions.

* * * * *

(b) *Related service* means any service or type of activity provided by a System bank or association that is appropriate to the recipient's operations, including control of related financial matters.

* * *

* * * * *

§ 618.8005 [Amended]

9. Amend § 618.8005 by:

a. Adding the phrase ''appropriate to on-farm and aquatic operations'' after the word ''services'' in paragraph (a); and

b. Removing the phrase ''appropriate to cooperative operations of'' and adding in its place, the word ''to'' in paragraph (c).

Dated: May 15, 2003.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 03–12631 Filed 5–20–03; 8:45 am]

BILLING CODE 6705–01–P

POSTAL SERVICE

39 CFR Part 111

Customized MarketMail ™

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: On March 14, 2003, the United States Postal Service, in conformance with sections 3622 and 3623 of the Postal Reorganization Act (39 U.S.C. 101 *et seq.*), filed a request for a recommended decision by the Postal Rate Commission (PRC) on the establishment of Customized MarketMail ™ as a minor classification change. ThePRC designated this filing as Docket No. MC2003–1.

In view of this filing, the Postal Service proposes to amend current mailing standards in the *Domestic Mail Manual* (DMM) that would permit mailers to mail irregular-shaped and nonrectangular-shaped Regular Standard Mail and Nonprofit Standard Mail pieces, including pieces that are ¼ inch thick or less. Such pieces would be limited to the nonletter basic rate categories in the Standard Mail Regular and Nonprofit subclasses.

Current mailing standards require that any mailpiece that is ¼ inch thick or less may not be mailed if the piece is not rectangular in shape. This ban on nonrectangular letter-size mail and, in some cases, nonrectangular flat-size mail has limited the options available to businesses and various organizations that might wish to reach existing or potential customers with advertising messages and designs—including the shape of the mailpiece—that are more creative than those now permitted under Postal Service mailing standards.

Customized MarketMail (CMM) would significantly overcome this limitation under controlled circumstances that would ensure minimal impact on Postal Service operations, while allowing mailers the latitude to target a specific audience with highly individualized mailpiece designs. More creative designs could encourage greater customer interest and response rates to promotions, advertising, or other types of communications.

DATES: Submit comments on or before June 5, 2003.

ADDRESSES: Mail or deliver written comments to the Manager, Mailing Standards, ATTN: Neil Berger, U.S. Postal Service, 1735 N. Lynn Street, Room 3025, Arlington, VA 22209–6038. Written comments may also be submitted via fax to (703) 292–4058. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the Postal Service Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor North, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Garry A. Rodriguez, (212) 613–8748, New York Rates and Classification Service Center; or Neil Berger, (703) 292–3645, Mailing Standards.

SUPPLEMENTARY INFORMATION: A basic requirement for mailability in Domestic Mail Classification Schedule (DMCS) § 6020 (and *Domestic Mail Manual* (DMM) § C010.1.1) is that ''[a]ll items, other than keys and identification devices, which are 0.25 inch thick or less must be rectangular in shape, at least 3.5 inches in width, and at least 5 inches in length.'' Administrative rulings issued by the Postal Service have interpreted and further clarified that the term ''rectangular'' implies that rectangular mailpieces must have four right-angle corners, four straight and regular edges, and no holes or other voids within their dimensions.

Mailpieces that are ¼ inch thick or thinner typically meet the dimensional standards for ''letter-size mail'' or ''flat-size mail.'' These two mail processing categories represent both the vast majority of mailpieces sorted and distributed in mail processing facilities and virtually all mail sorted into cases and delivered by Postal Service carriers.

The requirement that mail must be rectangular within certain dimensions for the typical letter-size or flat-size mailpieces was established to ensure that the Postal Service could efficiently handle and deliver such mail, whether by automated, mechanized, or manual means.

CMM items would differ from other letter-size mail and flat-size mail that is ¼ inch thick or less in two significant aspects. First, CMM items could be nonrectangular or irregular in shape. Second, such mail would be required to bypass all Postal Service handling between the mailer's plant (or point of origin) and the post office delivery unit. CMM items would therefore not be expected or required to be compatible with mechanical or automated processing because their entry profile was specifically developed so that CMM pieces would bypass mail processing operations designed for fairly standardized, rectangular-shaped mail.

CMM Verification and Entry

At the mailer's option, CMM items would have to be presented for postage verification at the origin office under existing plant-verified drop shipment (PVDS) procedures as defined in DMM P950, prepared as Express Mail or Priority Mail drop shipment standards under DMM M072, or taken directly to a destination Postal Service facility with a business mail entry unit as a presorted mailing subject to the requirements in DMM E610.8.0.

Under the PVDS option, current standards for a 200-piece minimum volume would apply only to the entire PVDS mailing job rather than to the quantity for each destination delivery unit (DDU). Normally, the DDU is the facility where the mail would be distributed to and cased for delivery by the corresponding mail carrier or, for noncarrier offices, the facility where the mail is distributed into post office boxes. Transportation to each destination would be either on a vehicle owned or contracted by the mailer, or it would be through the use of existing Express Mail or Priority Mail drop shipment standards in DMM D072.

CMM Preparation

Each CMM mailing would be subject to the current minimum volume requirement of 200 pieces for presorted Standard Mail mailpieces only. There would be, however, no minimum volume requirements for packaging or containerization because all mail processing operations would be bypassed.

Packaging of CMM pieces would be required for all types of containers used in order to maintain mailpiece orientation, inhibit movement of the pieces, and ensure stability in transit. At the same time, packaging would help protect the individual mailpieces from damage. The number of pieces in each package and the method of packaging would be at the mailer's discretion, subject to applicable standards for suitable materials and package sizes in DMM M020.

CMM would be required to be prepared in containers as appropriate to the volume of mail destined for the DDU. Equipment such as sleeved letter trays, Express Mail and Priority Mail containers (*i.e.*, Postal Service pouches, sacks, envelopes, and boxes) or envelopes or boxes supplied by the mailer would be permitted as containers. Each mailing presented in mailer-supplied containers, including those prepared as Express Mail and Priority Mail drop shipment, would be required to be accompanied by sample containers for tare weight calculations. Mailings with more than three different types of containers or mailings consisting of nonidentical-weight pieces would be required to be presented using a manifest mailing system (MMS) under DMM P910 or any other available postage payment system if approved by the Business Mailer Support (BMS) manager, Postal Service Headquarters.

CMM containers would be required to bear the correct container label and be endorsed to the attention of the delivery unit supervisor or postmaster with instructions to ''open and distribute'' the contents. At the DDU, the CMM pieces would be distributed to mail carriers for casing, and delivery, or in the case of noncarrier offices, to clerks for distribution directly into post office boxes.

At the mailer's option, every piece in a mailing would be permitted to bear the correct carrier route code under DMM M014. If applied, the carrier route code would require the use of CASS-certified software and the current USPS Carrier Route File scheme, hard-copy Carrier Route Files, or another AIS product containing carrier route information, subject to DMM A930 and A950. Carrier route information would also require updating within 90 days before the mailing date.

CMM Rates

CMM pieces would be subject to the basic nonletter piece rates, with no destination entry discount, in the Standard Mail Regular and Nonprofit subclasses. Owing to the irregular or nonrectangular shape inherent with CMM pieces, such pieces would also be subject to the residual shape surcharge (RSS). Currently, the RSS is applied only to mailable pieces within the Standard Mail subclasses that are prepared as a parcel or are not within the dimensional standards for either letter-size mail or flat-size mail.

CMM pieces would not be eligible for any destination entry discount, automation rate, or other presort rate. In addition, because CMM pieces would not be handled in mail processing facilities, such pieces would not be eligible for the parcel barcode discount, which currently is available to appropriately barcoded pieces that are also subject to the residual shape surcharge. Special services, as provided in DMM S900, would not be available for CMM pieces.

CMM Postage Payment

CMM pieces would be subject to the same options of postage payment (precanceled stamps, metered postage, or permit imprint) for Standard Mail pieces as permitted by current standards in DMM P600. CMM mailers would not be required to obtain special mailing permits or authorizations other than those already required for Regular or Nonprofit Standard Mail.

Mailers would, in most cases, be required to pay postage through an approved manifest mailing system (MMS) when more than three different types of mailing containers are used or when the mailing consists of nonidentical-weight pieces. Express Mail and Priority Mail drop shipments generally are also better processed through a manifesting system. The Business Mail Support (BMS) manager at Headquarters would approve the manifest mailing systems and any other postage payment system such as an optional procedure.

CMM Markings and Endorsements

In addition to the current class and rate markings required for Standard Mail pieces, CMM pieces would have to bear the marking ''CUSTOMIZED MARKETMAIL'' (or the approved abbreviations ''CUST MKTMAIL'' or ''CMM''). The standards and placement of applicable markings and endorsements would follow existing requirements for Standard Mail pieces under DMM M012.

CMM Physical Characteristics

CMM mailpieces could be constructed of any material that is safe for handling by Postal Service personnel. However, CMM pieces would have to be sufficiently flexible to withstand normal handling required for carrier casing and delivery and for placement into mail receptacles and post office boxes.

CMM pieces would not be allowed to have attachments or enclosures. However, it would be permissible for a CMM piece to be constructed or assembled from layers or parts to form a single item.

For purposes of defining the dimensional requirements, a straight line drawn between the most distant outer points on a CMM mailpiece would define the axis of its length and a perpendicular line to that axis would be the axis of its height. The minimum and maximum dimensions and weight are as follows:

(1) *Height:* No less than 3½ inches and no more than 12 inches.

(2) *Length:* No less than 5 inches and no more than 15 inches.

(3) *Thickness:* No less than 0.007 inch at its thinnest point and no more than ¾ inch when measured at its thickest point.

(4) *Weight:* No more than 3.3 ounces.

CMM pieces would be permitted to have voids or holes within their dimensions, and they would also be permitted to have a nonuniform thickness. If pieces are of nonuniform thickness, packages of CMM pieces would be required to be prepared by counterstacking under DMM M020 to ensure stability in transit.

Mailpiece design approval by the manager of business mail entry in the district serving the office of mailing, though not required, would be highly recommended. Physical or graphic content would be subject to current standards in DMM C020 and C030 and to any applicable nonpostal statutes and regulations.

CMM Addressing

Each CMM piece would be required to bear a complete mailing address including an accurate 5-digit ZIP Code or ZIP+4 code. CMM pieces must bear the exceptional address format or the occupant address format under DMM A040.

The exceptional address format uses both a recipient's name and the alternative ''Current Occupant'' or ''Current Resident,'' followed by a complete delivery address, city, state, and ZIP Code or ZIP+4 code. If the named recipient has moved, mail bearing an exceptional address format is neither forwarded to the recipient's new address nor returned to the sender. Instead, such mail is left at the indicated delivery address for the current resident.

The occupant address format does not use an actual recipient's name but only the designation ''Occupant,'' ''Householder,'' or ''Resident'' in place of a name, followed by a complete delivery address, city, state, and ZIP Code or ZIP+4 code. Mail bearing an occupant address is never forwarded or returned.

The address block could be placed anywhere on the mailpiece as currently permitted for flat-size mailpieces, whether printed directly on the mailpiece, or printed on an address label permanently affixed to the piece. The address and other mandatory information such as postage indicia and class and rate markings would be required to be clearly identifiable and legible, following current mailing standards.

CMM pieces would be subject to the standard for address quality and address list maintenance that requires all 5-digit ZIP Codes included in addresses on pieces claimed at Regular Standard Mail and Nonprofit Standard Mail rates to be verified and corrected within 12 months before the mailing date using a method approved by the Postal Service. This requirement ensures that mail is addressed for the correct ZIP Code destination and eliminates potential misdirection of mail. The use of detached address labels (DALs) would not be permitted for CMM pieces.

CMM Delivery

Postal Service handling of CMM mailpieces would end when the mail carrier delivers the pieces to the addresses shown on the pieces or when the postal employee distributes the pieces to the correct post office boxes. Deliverable CMM pieces would be delivered or left at the address, and CMM pieces that are undeliverable as addressed because of an invalid address would be discarded.

Ancillary service endorsements used for address correction services and the forwarding and return of mail would not be available. Each piece would also be required to bear the appropriate carrier release endorsement in DMM D042 (''Carrier—Leave If No Response'') to indicate that a deliverable CMM piece is to be left in a safe location near the recipient's mail receptacle if the piece cannot be placed inside the receptacle.

Although exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. of 553(b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to the *Domestic Mail Manual,* incorporated in the *Code of Federal Regulations. See* 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

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

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

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

Domestic Mail Manual (DMM)

* * * * *

C Characteristics and Content

C000 General Information

C010 General Mailability Standards

1.0 MINIMUM AND MAXIMUM DIMENSIONS

1.1 Minimum

[Revise 1.1 to read as follows:]

For mailability, the following standards apply:

a. All mailpieces (except Customized MarketMail mailed under E660 and keys and identification devices mailed under E130) that are ¼ inch thick or less must be rectangular, with four square corners and parallel opposite sides.

b. All mailpieces must be at least 3½ inches high and at least 5 inches long (see Exhibit 1.1).

c. All mailpieces must be at least 0.007 inch thick.

* * * * *

1.3 Length and Height

* * * * *

[Redesignate current 1.3c as 1.3d and add new 1.3c to read as follows:]

c. Standard Mail Customized MarketMail.

* * * * *

C600 Standard Mail

1.0 DIMENSIONS

1.1 Basic Standards

These standards apply to Standard Mail:

* * * * *

[Revise 1.1b to read as follows:]

b. Presorted rate and Customized MarketMail pieces are subject only to the basic mailability standards in C010.

* * * * *

[Redesignate current 2.0 through 5.0 as 3.0 through 6.0, respectively; add new 2.0 to read as follows:]

2.0 CUSTOMIZED MARKETMAIL

Mailpieces prepared as Customized MarketMail (CMM) under E660 must meet these additional standards and physical characteristics:

a. The material used for constructing the pieces, including paper, plastic, or any other suitable material, must be free of sharp edges, protrusions, and other design elements that could cause harm or injury to USPS personnel handling these pieces.

b. The dimensions of the pieces must not be smaller than the minimum dimensions for letter-size mail in C050 or greater than the maximum dimensions for flat-size mail in C050. Length and height are defined as follows:

(1) The length and the axis of length are determined by drawing a straight line between the two outer points most distant from each other.

(2) The height is determined by drawing perpendicular lines to the points that are the greatest distance above and below the axis of length. The sum of these two lines defines the height.

c. The maximum weight may not exceed 3.3 ounces.

d. Pieces may be rectangular or nonrectangular, may be of irregular thickness, and may include die cuts, holes, and voids.

e. Pieces must be flexible enough to fit inside a minimum-size mail receptacle measuring 4⅞ inches wide, 14⅞ inches high, and 5⅞ inches long (deep).

f. Design approval by the district business mail entry manager is not required, but it is recommended.

3.0 RESIDUAL SHAPE SURCHARGE

[Revise redesignated 3.0 to read as follows:]

Mail that is prepared as a parcel or is not letter-size or flat-size as defined in C050 is subject to a residual shape surcharge. Mail that is prepared as Customized MarketMail under E660 is also subject to the residual shape surcharge. There are different surcharges for Presorted rate pieces and Enhanced Carrier Route rate pieces.

* * * * *

D Deposit, Collection, and Delivery

D000 Basic Information

* * * * *

D040 Delivery of Mail

* * * * *

D042 Conditions of Delivery

* * * * *

[Revise heading of 7.0 to read as follows:]

7.0 CARRIER RELEASE

[Redesignate current text of 7.0 as 7.1 and add heading to read as follows:]

7.1 Parcels

An uninsured parcel may not be left in an unprotected place, such as a porch or stairway, unless the addressee has filed a written order, or the mailer has endorsed the parcel ''Carrier—Leave If No Response.'' The endorsement must appear directly below the return address as specified in M012.

[Add new 7.2 to read as follows:]

7.2 Customized MarketMail

Any matter mailed as Customized MarketMail under E660 must bear the endorsement ''Carrier—Leave If No Response'' as specified in M012.

* * * * *

E Eligibility

* * * * *

E100 First-Class Mail

E110 Basic Standards

1.0 CLASSIFICATION AND DESCRIPTION

1.1 Eligibility

[Revise 1.1 to read as follows:]

All mailable matter may be sent as First-Class Mail (which for the purposes of the standards in 1.0 includes Priority Mail) or as Express Mail, except Customized MarketMail under E660 or other matter prohibited by the respective standards.

* * * * *

E600 Standard Mail

E610 Basic Standards

* * * * *

4.0 ENCLOSURES AND ATTACHMENTS

* * * * *

4.3 Nonincidental First-Class Enclosures

[Revise first sentence of 4.3 to read as follows; no other change:]

Letters or other pieces of nonincidental First-Class Mail, subject to postage at First-Class Mail rates, may be enclosed with Standard Mail (except matter mailed as Customized MarketMail under E660). * * *

4.4 Nonincidental First-Class Attachments

[Revise first sentence of 4.4 to read as follows; no other change:]

Letters or other pieces of nonincidental First-Class Mail may be placed in an envelope and securely attached to the address side of a Standard Mail piece (except matter mailed as Customized MarketMail under E660), or of the principal piece, as applicable. * * *

4.5 Attachment of Other Standard Mail Matter

[Revise introductory sentence and 4.5b to read as follows:]

The front or back cover page of a Standard Mail piece (except Customized MarketMail) may bear an attachment that is also Standard Mail matter if:

* * * * *

b. The material qualifies for and is mailed at Standard Mail rates.

* * * * *

5.0 RATES

5.1 General Information

[Revise 5.1 to read as follows:]

All Standard Mail rates are presorted rates (including all nonprofit rates). These rates apply to mailings meeting the basic standards in E610 and the corresponding standards for Presorted rates under E620, Enhanced Carrier Route rates under E630, automation rates under E640, or Customized MarketMail rates under E660. Except for Customized MarketMail, destination entry discount rates are available under E650, and barcode discounts are available for machinable parcels under E620. A mailpiece is subject to the residual shape surcharge if it is prepared as a parcel, or if it is not letter-size or flat-size under C050, or if it is prepared as Customized MarketMail under E660. Nonprofit rates may be used only by organizations authorized by the USPS under E670. Not all processing categories qualify for every rate. Pieces are subject to either a single minimum per piece rate or a combined piece/pound rate, depending on the weight of the individual pieces in the mailing under 5.2 or 5.3.

5.2 Minimum per Piece Rates

The minimum per piece rates (*i.e.*, the minimum postage that must be paid for each piece) apply as follows:

* * * * *

[Revise 5.2b and 5.2c to read as follows:]

b. Letters and Nonletters. In applying the minimum per piece rates, a mailpiece is categorized as either a letter or a nonletter, based on whether the piece meets the letter-size standard in C050, without regard to placement of the address on the piece, except under these conditions:

(1) If the piece meets both the definition of a letter in C050 and the definition of an automation flat in C820, the piece may be prepared and entered at an automation flat (nonletter) rate.

(2) If the piece is prepared for automation letter rates, address placement is used to determine the length when applying the size standards and aspect ratio requirements to qualify for automation letter rates under C810. For this purpose, the length is considered to be the dimension parallel to the address.

(3) If the piece is mailed as Customized MarketMail under E660, the piece is always subject to the applicable Regular or Nonprofit Standard Mail basic nonletter per piece rate and must not exceed the maximum weight for those rates.

c. *Individual Rates.* There are separate minimum per piece rates for each subclass (Regular, Enhanced Carrier Route, Nonprofit, and Nonprofit Enhanced Carrier Route) and within each subclass for the type of mailing and the level of presort within each mailing under E620, E630, E640, and E660. Except for Customized MarketMail, discounted per piece rates also may be claimed for destination entry mailings (destination bulk mail center (DBMC), destination sectional center facility (DSCF), and destination delivery unit (DDU)) under E650. DDU rates are available only for mail entered at Enhanced Carrier Route or Nonprofit Enhanced Carrier Route rates. See R600 for individual per piece rates.

5.3 Piece/Pound Rates

[Revise 5.3 by adding a new sentence after the first sentence to read as follows; no other change:]

* * * Pieces exceeding 3.3 ounces may not be mailed as Customized MarketMail. * * *

* * * * *

[Revise heading of 5.4 to read as follows:]

5.4 Machinable Parcel Barcode Discount

[Revise last sentence to read as follows:]

* * * Pieces mailed at Enhanced Carrier Route, Nonprofit Enhanced Carrier Route, or Customized MarketMail rates are not eligible for a barcoded discount.

5.5. Residual Shape Surcharge

[Revise 5.5 to read as follows:]

Standard Mail that is prepared as a parcel or is not letter-size or flat-size as defined in C050 is subject to a residual shape surcharge. Mail that is prepared as Customized MarketMail under E660 is also subject to the residual shape surcharge. There are different surcharges for Presorted rate pieces and Enhanced Carrier Route rate pieces. Only the surcharges for Presorted rate pieces apply to Customized MarketMail.

* * * * *

9.0 SPECIAL SERVICES

* * * * *

9.3 Ineligible Matter

Special services may not be used for any of the following types of Standard Mail:

* * * * *

[Add 9.3e to read as follows:]

e. Pieces mailed as Customized MarketMail.

* * * * *

E620 Presorted Rates

* * * * *

[Revise heading and text of 3.0 to read as follows:]

3.0 RESIDUAL SHAPE SURCHARGE

Presorted Standard Mail that is prepared as a parcel or is not letter-size or flat-size as defined in C050 is subject to a residual shape surcharge.

* * * * *

E630 Enhanced Carrier Route Rates

* * * * *

5.0 RESIDUAL SHAPE SURCHARGE

[Revise 5.0 to read as follows:]

Enhanced Carrier Route Standard Mail that is prepared as a parcel or is not letter-size or flat-size as defined in C050 is subject to a residual shape surcharge.

* * * * *

E650 Destination Entry

1.0 BASIC STANDARDS

1.1 Rate Application

[Revise first sentence of 1.1 to read as follows; no other change:]

Except for Customized MarketMail as defined in E660, Regular, Nonprofit, Enhanced Carrier Route, and Nonprofit Enhanced Carrier Route Standard Mail meeting the basic standards in E610 may qualify for the destination BMC, SCF, or DDU entry rates, as applicable, if deposited at the correct destination postal facility, subject to the general standards below and the specific standards in 5.0, 6.0, and 7.0, respectively. * * *

* * * * *

[Add new E660 to read as follows:]

E660 Customized MarketMail

Summary

E660 describes the eligibility standards for Customized MarketMail (CMM) including standards for minimum volumes, addressing, and drop shipment.

1.0 BASIC STANDARDS

1.1 General

Customized MarketMail (CMM) is an option for mailing nonrectangular and irregular-shaped Regular Standard Mail and Nonprofit Standard Mail pieces if the pieces weigh 3.3 ounces or less and meet the physical characteristics and the dimensional requirements in C600 and the mail preparation standards in M660. Other Regular and Nonprofit Standard Mail measuring ¾ inch thick or less and meeting the applicable

standards in C600, E660, and M660 may be entered as CMM at the mailer's option. CMM must be entered directly at a destination delivery unit (DDU).

1.2 Basic Standards

All pieces in a CMM mailing must:

a. Meet the basic standards for Standard Mail in E610 and, for Nonprofit Standard Mail, the additional standards in E670.

b. Be part of a single mailing of at least 200 addressed pieces. All pieces must be identical in size, shape, and weight unless excepted by standard under an approved postage payment system.

c. Bear a complete delivery address using the exceptional address format or occupant address format under A040 with the correct ZIP Code or ZIP+4 code. Each piece must also bear a carrier release endorsement as specified by D042.7.0. These additional addressing standards apply:

(1) Detached address labels (DALs) under A060 are not permitted.

(2) Ancillary service endorsements under F010 are not permitted.

(3) All 5-digit ZIP Codes included in addresses on pieces must be verified and corrected within 12 months before the mailing date, using a USPS-approved method. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rates to which the standard applies during the 12-month period after its most recent update.

(4) At the mailer's option, a carrier route information line under M014 may be added. If this option is used, a carrier route code must be applied to every piece in the mailing and must be applied using CASS-certified software and the current USPS Carrier Route File scheme, hard copy Carrier Route Files, or another AIS product containing carrier route information, subject to A930 and A950. Carrier route information must be updated within 90 days before the mailing date.

d. Be marked, sorted, and documented as specified in M660.

e. Be entered at the destination delivery unit appropriate to the delivery address on the corresponding mail, as a mailing subject to the applicable requirements in E650, as a mailing using Express Mail or Priority Mail drop shipment under M072, or as a plant-verified drop shipment (PVDS) mailing under P950. Minimum volumes per destination are not required.

2.0 RATES

Each CMM piece is subject to the Presorted Regular or Nonprofit Standard Mail nonletter, nondestination entry basic rate plus the residual shape surcharge. CMM is not eligible for the parcel barcode discount.

3.0 SPECIAL SERVICES

CMM is not eligible for any special service.

* * * * *

E700 Package Services

E710 Basic Standards

1.0 BASIC INFORMATION

1.1 Definition

[Revise first sentence of 1.1 to read as follows; no other change:]

Package Services mail consists of mailable matter that is neither mailed or required to be mailed as First-Class Mail nor entered as Periodicals (unless permitted or required by standard) or as Customized MarketMail as defined in E660. * * *

* * * * *

F Forwarding and Related Services

F000 Basic Services

F010 Basic Information

* * * * *

5.0 CLASS TREATMENT FOR ANCILLARY SERVICES

* * * * *

5.3 Standard Mail

Undeliverable-as-addressed (UAA) Standard Mail is treated as described in Exhibit 5.3a and Exhibit 5.3b, with these additional conditions:

* * * * *

[Add 5.3k to read as follows:]

k. Customized MarketMail under E660 is not eligible to use ancillary service endorsements.

* * * * *

M Mail Preparation and Sortation

M000 General Preparation Standards

M010 Mailpieces

M011 Basic Standards

1.0 TERMS AND CONDITIONS

* * * * *

1.4 Mailings

Mailings are defined as:

* * * * *

d. *Standard Mail.* Except as provided in E620.1.2, the types of Standard Mail listed below may not be part of the same mailing. *See* M041, M045, M610, M620, and M900 for copalletized, combined, or mixed-rate mailings.

* * * * *

[Add 1.4d(8) to read as follows:]

(8) Customized MarketMail and any other type of mail.

* * * * *

M012 Markings and Endorsements

* * * * *

2.0 MARKINGS—FIRST-CLASS MAIL AND STANDARD MAIL

2.1 Placement

Markings must be placed as follows:

* * * * *

[Revise 2.1b to read as follows:]

b. Other Markings. The rate-specific markings ''AUTO,'' ''AUTOCR,'' ''Presorted'' (or ''PRSRT''); ''Single-Piece'' (or ''SNGLP'') (First-Class Mail only); and ''ECRLOT,'' ''ECRWSH,'' ''ECRWSS,'' and ''Customized MarketMail'' (or ''CUST MKTMAIL'' or ''CMM'') (Standard Mail only)) may be placed as follows:

(1) In the location specified in 2.1a.

(2) In the address area on the line directly above or two lines above the address if the marking appears alone or if no other information appears on the line with the marking except optional endorsement line information under M013 or carrier route package information under M014.

(3) If preceded by two asterisks (**), the ''AUTO,'' ''AUTOCR,'' ''PRESORTED'' (or ''PRSRT''), ''CUSTOMIZED MARKETMAIL'' (or ''CUST MKTMAIL'' or ''CMM''), or ''Single-Piece'' (or ''SNGLP'') marking also may be placed on the line directly above or two lines above the address in a mailer keyline or a manifest keyline, or it may be placed above the address and below the postage in an MLOCR ink-jet printed date correction/meter drop shipment line. Alternatively, the ''AUTO,'' ''AUTOCR,'' ''PRSRT,'' or ''SNGLP'' marking may be placed to the left of the barcode clear zone (subject to the standards in C840) on letter-size pieces.

* * * * *

M070 Mixed Classes

* * * * *

M072 Express Mail and Priority Mail Drop Shipment

1.0 BASIC STANDARDS

1.1 Enclosed Mail

[Revise last sentence of 1.1 to read as follows; no other change:]

* * * When a drop shipment is destined to a 5-digit facility, then sacking or traying is not required for letters or flats, if all enclosed presort destination packages are destined to the same 5-digit ZIP Code as the Express Mail or Priority Mails pouch, sack, or container.

* * * * *

1.3 Containers for Expedited Transport

[Revise 1.3 to read as follows:]

Acceptable containers for expedited transport are as follows:

a. An Express Mail drop shipment must be contained in a blue and orange Express Mail pouch, except that Customized MarketMail under E660 may be contained in USPS-provided Express Mail envelopes and cartons or in any properly labeled container supplied by the mailer.

b. A Priority Mail drop shipment must be contained in either an orange Priority Mail sack or a letter-size tray, except that Customized MarketMail under E660 may be contained in USPS-provided Priority Mail envelopes and cartons or in any properly labeled container supplied by the mailer.

* * * * *

1.7 Label 23

[Revise 1.7 to read as follows:]

As an alternative to sacks for Priority Mail drop shipments, letter trays or mailer-supplied containers for Customized MarketMail under E660 may be used. Label 23 is affixed to the letter tray or mailer-supplied container. A single Label 23 may be used to identify two letter trays strapped together. The two trays must be of identical size, and each individual tray must be strapped under M033.1.5. Label 23 must be affixed to the sleeve of the top tray before strapping. These trays must be strapped securely around the length of the two trays. The total weight of two trays strapped together or mailer-supplied containers used for CMM may not exceed 70 pounds.

* * * * *

M600 Standard Mail

* * * * *

[Add new M660 to read as follows:]

M660 Customized MarketMail

Summary

M660 describes the basic preparation and marking standards for CustomizedMarketMail (CMM) meeting the eligibility standards in E660.

1.0 BASIC STANDARDS

1.1 All Mailings

All mailings and all pieces in each mailing prepared as Customized MarketMail (CMM) are subject to specific preparation standards in 1.0 and 2.0 and to these general standards:

a. All pieces must meet the standards for basic eligibility in E610 and specific eligibility in E660. Nonprofit Standard Mail must meet the additional eligibility standards in E670.

b. CMM pieces must not be part of a mailing containing any other type of Standard Mail.

c. Each mailing must meet the applicable standards for mail preparation in M010 and M020 and the following:

(1) Subject to the marking standards in M012, Regular Standard Mail pieces must be marked ''Presorted Standard'' (or ''PRSRT STD'') and Nonprofit Standard Mail pieces must be marked ''Nonprofit Organization'' (or ''Nonprofit Org.'' or ''Nonprofit''). All pieces must also be marked Customized MarketMail,'' ''CUST MKTMAIL,'' or ''CMM.''

(2) At the mailer's option, a carrier route information line under M014 may be added. If this option is used, a carrier route code must be applied to every piece in the mailing and must be applied using CASS-certified software and the current USPS Carrier Route File scheme, hard copyCarrier Route Files, or another AIS product containing carrier route information, subject to A930 and A950. Carrier route information must be updated within 90 days before the mailing date.

d. All pieces in the mailing must meet the specific sortation and preparation standards in M660.

e. Pieces are subject to the rate eligibility specified in E660.

1.2 Postage

CMM is subject to the same options of postage payment (precanceled stamps, metered postage, or permit imprint) for Standard Mail as permitted under P600.

1.3 Documentation

A complete, signed postage statement, using the correct USPS form or an approved facsimile with the residual shape surcharge, must accompany each mailing. Mailings of nonidentical-weight pieces or mailings using more than three different types of containers must also be supported by standardized documentation meeting the standards in P012. Documentation for nonidentical-weight pieces is not required if the correct rate is affixed to each piece.

2.0 PREPARATION

2.1 Packaging

Two or more pieces to the same 5-digit destination must be packaged under M020 in any container to maintain the integrity and stability of the pieces throughout transit and handling. The maximum weight for any package is 20 pounds. Pieces of irregular thickness must also be counterstacked as provided in M020. At the mailer's option, CMM may be prepared in carrier route packages, subject to the applicable standards in M050 and E630.

2.2 Containers

If more than three types of containers are used, the mailing must be prepared using an approved manifest mailing system (MMS) under P910, unless the Business Mailer Support (BMS) manager approves another postage payment system. Each mailing presented in mailer-supplied containers must be accompanied by sample containers for tare weight calculations. The size of the containers must be appropriate to the dimensions of the pieces, and the number of containers must be appropriate to the volume of pieces in the mailing. If Express Mail or Priority Mail drop shipment is used, containers are subject to the standards in M072.

2.3 Containerizing and Labeling

Mail must be prepared in 5-digit, 5-digit scheme using L606, or 5-digit carrier route containers, with no minimum volume (piece or weight) required for an individual container. In addition to the required labeling, mailer-supplied containers must be marked ''DELIVERY UNIT—OPEN AND DISTRIBUTE'' on the container label or on the address side of the container. Containers are prepared and labeled as follows:

a. PVDS drop shipments must be prepared in 5-digit or 5-digit carrier route letter trays or in mailer-supplied containers and labeled as follows:

(1) *Line 1:* City, state, and 5-digit ZIP Code on mail.

(2) *Line 2:* ''DELIVERY UNIT—STD CMM.''

(3) *Line 3:* Office of mailing or mailer information (see M031).

b. Express Mail and Priority Mail drop shipments must be prepared in USPS-provided Express Mail or Priority Mail containers (*i.e.*, pouches, sacks, cartons, or envelopes) or in mailer-supplied containers and must be labeled under M072.

* * * * *

P Postage and Payment Methods

P000 Basic Information

* * * * *

P040 Permit Imprints

* * * * *

4.0 INDICIA FORMAT

4.1 Basic Standard

Exhibit 4.1b Indicia Formats

[Revise Exhibit 4.1b, Standard Mail by adding an example of ''CustomizedMarketMail,'' ''Cust MktMail,'' or ''CMM'' marking.]

PRSRT STD
CUST MKTMAIL
U.S. POSTAGE PAID
NEW YORK, NY
PERMIT NO. 1

* * * * *

R Rates and Fees

* * * * *

R600 Standard Mail

1.0 REGULAR STANDARD MAIL

* * * * *

1.2 Nonletters—3.3 oz. or Less

* * * * *

[Add footnote 2 to ''Presorted'' to read as follows:]

2. Customized MarketMail pieces are subject to the Basic nondestination entry nonletter rate, plus the residual shape surcharge.

* * * * *

3.0 NONPROFIT STANDARD MAIL

* * * * *

3.2 Nonletters—3.3 oz. or Less

* * * * *

[Add footnote 2 to ''Presorted'' to read as follows:]

2. Customized MarketMail pieces are subject to the Basic nondestination entry nonletter rate, plus the residual shape surcharge.

* * * * *

S Special Services

S000 Miscellaneous Services

* * * * *

S070 Mixed Classes

1.0 BASIC INFORMATION

[Revise 1.0 to read as follows:]

For a Priority Mail drop shipment, no special services may be added to the Priority Mail segment, and the mail enclosed may receive only the following services:

a. First-Class Mail may be sent with certified, special handing, or, for First-Class Mail parcels only, electronic option Delivery Confirmation or electronic option Signature Confirmation.

b. Standard Mail subject to the residual shape surcharge (except Customized MarketMail) may be sent with electronic option Delivery Confirmation.

c. Package Services mail may be sent with special handling or, for Package Services parcels only, electronic option Delivery Confirmation or electronic option Signature Confirmation.

* * * * *

S500 Special Services for Express Mail

* * * * *

2.0 EXPRESS MAIL DROP SHIPMENT

[Revise 2.0 to read as follows:]

For an Express Mail drop shipment, the content of each Express Mail pouch is considered one mailpiece for indemnity coverage, and the mail enclosed may receive only the following services:

a. First-Class Mail may be sent with certified, special handing, or, for First-Class Mail parcels only, electronic option Delivery Confirmation or electronic option Signature Confirmation.

b. Priority Mail may be sent with certified, special handing, electronic option Delivery Confirmation, or electronic option Signature Confirmation.

c. Standard Mail subject to the residual shape surcharge (except Customized MarketMail) may be sent with electronic option Delivery Confirmation.

d. Package Services mail may be sent with special handling or, for Package Services parcels only, electronic option Delivery Confirmation or electronic option Signature Confirmation.

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I Index Information

I000 Information

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I020 References

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I022 Subject Index

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[Add the following two entries to read as follows:]

Customized MarketMail, C600, E660, M660

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Standard Mail

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mail preparation

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Customized MarketMail, M660

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An appropriate amendment to 39 CFR 111 to reflect these changes will be published if the proposal is adopted.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 03–12719 Filed 5–20–03; 8:45 am]

BILLING CODE 7710–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–1545, MB Docket No. 03–118, RM–10585]

Digital Television Broadcast Service; Butte, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by KXLF Communications, Inc., licensee of KXLF–TV, NSTC channel 4, Butte, Montana, requesting the substitution of DTV channel 5 for DTV channel 15. DTV Channel 5 can be allotted to Butte, Montana, at reference coordinates 46–00–27 N. and 112–26–30 W. with a power of 10.7, a height above average terrain HAAT of 588 meters. Since the community of Butte is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian must be obtained for this allotment.

DATES: Comments must be filed on or before July 7, 2003, and reply comments on or before July 22, 2003.

ADDRESSES: The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (*except in broadcast allotment proceedings*). *See Electronic Filing of Documents in Rule Making Proceedings*, GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or

messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Scott S. Patrick, Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, NW., Suite 800, Washington, DC 20036–6802 (Counsel for KXLF Communications, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–118, adopted May 8, 2003, and released May 15, 2003. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

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

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

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

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Montana is amended by removing DTV channel 15 and adding DTV channel 5 at Butte.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 03–12685 Filed 5–20–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 030509120–3120–01; I.D. 033103D]

RIN 0648–AQ32

Fisheries of the Northeastern United States; Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2003

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes recreational measures for the 2003 summer flounder, scup, and black sea bass fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the upcoming fishing year and to provide an opportunity for public comment. The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources.

DATES: Comments must be received on or before June 5, 2003.

ADDRESSES: Comments on the proposed recreational specifications should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298.

Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committee and of the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901–6790. The EA/RIR/IRFA is also accessible via the Internet at *http:/www.nero.nmfs.gov*.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, Fishery Policy Analyst, (978) 281–9279, fax (978) 281–9135, e-mail *sarah.mclaughlin@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils.

The management units specified in the Fishery Management Plan (FMP) for the Summer Flounder, Scup, and Black Sea Bass Fisheries include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina (NC) northward to the U.S./Canada border, and scup (Stenotomus chrysops) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°13.3′ N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada border.

The FMP and its implementing regulations found at 50 CFR part 648, subparts A, G (summer flounder), H (scup), and I (black sea bass), describe the process for specifying annual recreational measures that apply in the Exclusive Economic Zone (EEZ). The states manage these fisheries within 3 miles of their coast, under the Commission's Interstate Summer Flounder, Scup, and Black Sea Bass FMP. The Federal regulations govern vessels fishing in the EEZ, as well as vessels possessing a Federal fisheries permit, regardless of where they fish.

The Council's FMP established Monitoring Committees (Committees) for the three fisheries, consisting of representatives from the Commission, the Mid-Atlantic, New England, and South Atlantic Councils, and NMFS. The FMP and its implementing

regulations require the Committees to review scientific and other relevant information annually and to recommend management measures necessary to achieve the recreational harvest limits established for the summer flounder, scup, and black sea bass fisheries for the upcoming fishing year. The Council's FMP limits these measures to minimum fish size, possession limit, and fishing season.

The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) then consider the Committees' recommendations and any public comment in making their recommendations to the Council and the Commission, respectively. The Council then reviews the recommendations of the Demersal Species Committee, makes its own recommendations, and forwards them to NMFS for review. The Commission similarly adopts recommendations for the states. NMFS is required to review the Council's recommendations to ensure that they are consistent with the targets specified for each species in the FMP.

Final quota specifications for the 2003 summer flounder, scup, and black sea bass fisheries were published on January 2, 2003 (68 FR 60). These specifications were determined to be consistent with the 2003 target fishing mortality rate (F) (for summer flounder) and target exploitation rates (for scup and black sea bass). The 2003 coastwide recreational harvest limits are 9.28 million lb (4,209 mt) for summer flounder, 4.01 million lb (1,819 mt) for scup, and 3.43 million lb (1,557 mt) for black sea bass. The specifications do not establish recreational measures, since final recreational catch data were not available when the Council made its recreational harvest limit recommendation to NMFS.

All minimum fish sizes discussed below are total length (TL) measurements of the fish, i.e., the straight-line distance from the tip of the snout to the end of the tail while the fish is lying on its side.

Summer Flounder

The 2003 summer flounder recreational harvest limit is 9.28 million lb (4,209 mt), 4.5 percent less than the 2002 recreational harvest limit. However, 2002 recreational summer flounder landings are projected to be 8.13 million lb (3,688 mt), 12 percent less than the 2002 recreational harvest limit. Assuming the same level of fishing effort in 2003, no coastwide reductions in landings would be required for summer flounder. However, as described below, under the Council-recommended conservation equivalency measures, Virginia (VA) would be required to reduce summer flounder landings in 2003 (by 11 percent).

NMFS implemented Framework Adjustment 2 to the FMP in July 2001 (66 FR 36208). This framework implemented a process that makes conservation equivalency a management option for the summer flounder recreational fishery. Conservation equivalency allows each state to establish its own recreational management measures (possession limits, fish size limits, and fishing seasons), as long as the combined effect of all of the states' management measures achieve the same level of conservation as would Federal coastwide measures developed to achieve the recreational harvest limit, if implemented by all of the states (i.e., both would have equivalent Fs). Conservation equivalency was implemented for the 2002 summer flounder recreational fishery.

The Council and Board recommend annually either conservation equivalency (whereby states develop state-specific measures) or coastwide management measures (whereby all states adopt the same measures as the Federal measures) for the summer flounder recreational fishery to ensure that the recreational harvest limit will not be exceeded. If the Council and the Board recommend conservation equivalency, they must also recommend coastwide management measures that would be implemented if, following NMFS review and public comment, conservation equivalency is not implemented in the final rule. In addition, the Council and the Board must recommend precautionary default measures that would apply in states that do not implement conservation equivalent measures, or for which management proposals are not approved by the Board. The precautionary default measures are defined as the set of measures that would achieve the greatest reduction in landings required for any state.

In December 2002, the Council and Board voted to recommend conservation equivalency to achieve the 2003 recreational harvest limit. Additionally, the Board agreed to allow states that landed less than their 2002 target to liberalize regulations for 2003. The precautionary default measures specified by the Council and Board are the same as specified for 2002 and consist of an 18–inch (45.72–cm) minimum fish size, a possession limit of one fish per person, and no closed season. The precautionary default alternative would reduce landings by 67 percent, assuming the measures are implemented by all states. Because the precautionary default measures must be restrictive enough to achieve the necessary reductions in the state requiring the greatest reductions, application of the precautionary default would achieve higher than necessary reductions in most states. State-specific reductions would range from 41 percent in Delaware (DE) to 88 percent in NC.

Finally, the coastwide alternative recommended by the Council and Board to be implemented in the EEZ if conservation equivalency is not implemented, consists of a 17–inch (43.18–cm) minimum fish size, a possession limit of four fish per person, and no closed season. The coastwide alternative would reduce recreational landings by 32 percent, based on 2001 data, assuming the coastwide regulations are implemented by all states. State-specific reductions would range from 0 percent in DE to 63 percent in NC.

The Commission has established conservation equivalency guidelines that require each state, using state-specific equivalency tables, to determine and implement an appropriate possession limit, size limit, and closed season to achieve the landings reduction necessary for each state. The state-specific tables are adjusted to account for the past effectiveness of the regulations in each state. State-specific reductions associated with the 2003 coastwide recreational harvest limit of 9.28 million lb (4,209 mt) are based on the number of fish landed in 1998 (because 1998 is the last year that recreational summer flounder regulations were consistent along the coast), and the number of fish projected to have been landed in 2002. Recreational landings in 1998 were 6.978 million fish, coastwide. Based on the mean weight of landed fish for 2000, 2001, and 2002, the harvest limit for 2003 was converted to numbers of fish, i.e., 4.122 million fish. Landings projections for 2002 indicate that VA is the only state required to reduce summer flounder landings (by 11 percent) in 2003. States other than VA (from Maine (ME) to NC) do not require any reductions in recreational summer flounder landings if their current regulations are maintained.

The Board required each state to submit its conservation equivalency proposal to the Commission by January 15, 2003. The Commission's Summer Flounder Technical Committee has since evaluated the proposals and advised the Board of each proposal's

consistency with respect to achieving the coastwide recreational harvest limit. After the Technical Committee evaluation, the Board met on February 25, 2003, to approve or disapprove each state's proposal.

The Commission invited public participation in its review process by holding public meetings and offering the public the opportunity to comment on the state proposals. During the comment period, the Commission will notify NMFS as to which state proposals have been approved or disapproved. NMFS will provide this information in the final rule, establishing the 2003 recreational measures for these fisheries.

If, at the final rule stage, the Commission recommends, and NMFS accepts, conservation equivalency, NMFS would waive the Federal recreational measures for federally permitted charter/party permit holders and recreational vessels fishing for summer flounder in the EEZ. Those vessels would be required to abide by the requirements enacted by the state in which they land summer flounder. States that do not submit proposals, or for which proposals were disapproved by the Commission, would be required by the Commission to adopt the precautionary default measures. States assigned the precautionary default measures would be allowed to resubmit revised management measures. The Commission would notify NMFS of any resubmitted proposals that were approved after publication of the final rule implementing the recreational specifications. NMFS then would publish a notice in the **Federal Register** to notify the public of any changes in the state's management measures.

Scup

The 2003 scup recreational harvest limit is 4.01 million lb (1,819 mt), 48 percent more than the recreational harvest limit for 2002. The 2002 recreational scup landings are projected to have been 3.76 million lb (1,706 mt). As a result of the increase in the harvest limit, recreational scup landings can increase by 7 percent in 2003, relative to the projected landings for 2002. Although it appears that constraints on the fishery could be relaxed, any relaxation should be balanced with the consideration of stock status. The most recent assessment indicates that the scup biomass increased in 2002 and is likely to increase again in 2003. Survey information indicates that regulations may have protected a large 1997 year class and also indicate that strong year classes were produced in 1999 through 2001. If the 1999, 2000, and 2001 year classes are large, and mortality of undersized fish is reduced, substantial biomass could be added to the stock by 2003 and availability of legal-sized fish could increase. Because fewer fish were landed by in the recreational fishery in 2002 than in 2001, the Council decided that the 2001 landings should be used as a basis to determine the appropriate possession and size limits to constrain the 2003 landings to the recreational harvest limit. Additionally, to evaluate properly the required coastwide measures, it is necessary first to extrapolate the 2001 landings to estimate the level of landings that would have resulted if the states had not implemented any scup fishery closures. As a result, to achieve the 2003 harvest limit, a 27–percent reduction from the extrapolated 2001 level of landings is necessary.

The 2003 scup recreational fishery will be managed under separate regulations for state and Federal waters; the Federal measures would apply only to party/charter boats with Federal permits. In Federal waters, the Council recommended coastwide management measures of a 10–inch (25.4–cm) minimum fish size, a 50–fish possession limit, and open seasons of January 1 through February 28, and July 1 through November 30. The Council has estimated that these measures would reduce recreational scup landings (from the extrapolated 2001 level) by 27 percent, assuming that regulations will be implemented by all of the states. For comparative purposes, the current (status quo) scup recreational measures in the EEZ are a 10–inch (25.4–cm) minimum fish size, a 20–fish possession limit and open seasons of January 1 through February 28, and July 1 through October 2. NMFS has reviewed the Council's analyses of these measures and is proposing the Council's preferred alternative without modification.

The Board postponed making a final decision on state measures for scup at its December 2002 meeting and advised its staff to prepare an addendum to the Commission's Interstate FMP that would provide the states with a mechanism for effectively managing their 2003 recreational scup fisheries on a state-by-state basis. A prior addendum that addressed the 2002 recreational fishery expired at the end of 2002. On February 25, 2003, the Board approved Addendum IX to the Commission's Interstate FMP (Addendum IX), which allows states from Massachusetts (MA) through New York (NY) to develop either regional or state-specific management measures. For New Jersey (NJ), which has limited recreational scup landings data, the Board approved a 10–inch (25.4–cm) minimum size, a 50–fish possession limit, and an open season of July 1 through December 31. Due to low scup landings in the southern range of the species, the Board approved a 10–inch (25.4–cm) minimum fish size, a 50–fish possession limit, and no closed season for DE, Maryland (MD), VA, and NC. The Monitoring Committee has recommended that, should the Board implement conservation equivalency for the 2003 scup fishery, states from MA through NY adopt a 10–inch minimum fish size and a 50–fish possession limit, and achieve the necessary reductions through state-specific season modification. Although MA is permitted a 22–percent increase in landings, it has chosen to maintain its 2002 regulations for the 2003 season. Because the Federal FMP does not contain provisions for conservation equivalency, and states may adopt their own unique measures under Addendum IX, it is likely that state and Federal recreational scup measures will differ for the 2003 season.

Black Sea Bass

The 2003 black sea bass recreational harvest limit is 3.43 million lb (1,557 mt), the same as that implemented in 2002. However, the 2002 recreational black sea bass landings are projected to be 4.4 million lb (1,996 mt). After extrapolating the 2002 landings to estimate the level of landings that would have been expected if the states had not implemented any seasonal black sea bass fishery closures, the Council determined that the extrapolated 2002 landings would have to be reduced by 27 percent to achieve the 2003 harvest limit.

The Council and Board recommended the following measures for the 2003 coastwide recreational black sea bass fishery: A 12–inch minimum fish size, a 25–fish possession limit, and open seasons of January 1 through September 1, and September 16 through November 30. These measures are expected to provide a 27–percent reduction in recreational black sea bass landings (from the 2002 level). For comparative purposes, the current (status quo) black sea bass regulations include an 11.5–inch (29.21–cm) minimum fish size, a 25–fish possession limit, and no closed season. NMFS has reviewed the Council's analyses of these measures and is proposing the Council's preferred alternative without modification.

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Council prepared an IRFA that describes the economic impact this

proposed rule, if adopted, would have on small entities.

A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this rule. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. A copy of the complete IRFA is available from the Council (see **ADDRESSES**). A summary of the analysis follows.

The proposed action could affect any recreational angler who fishes for summer flounder, scup, or black sea bass. However, this summary of the IRFA focuses upon the impacts on party/charter vessels issued a Federal permit for summer flounder, scup, and/or black sea bass because these vessels can be specifically identified in the Federal vessel permit database and would be impacted by the recreational measures, regardless of whether they fish in Federal or state waters. Although other recreational anglers are likely to be impacted, they are not considered small entities, nor is there a permit requirement to participate in these fisheries.

In the EA, the no action alternative for each species is defined as the continuation of the management measures implemented for the 2002 fishing season. The Council did not analyze an alternative combining the status quo measures in place for all three species. In consideration of the Council-recommended recreational harvest limits established for the 2003 fishing year, implementation of the same recreational measures established for the 2002 fishing year would be inconsistent with the goals and objectives of the FMP and its implementing regulations, and, because it could result in overfishing of the black sea bass fishery, it also would be inconsistent with National Standard 1 of the Magnuson-Stevens Act. Therefore, the no action alternative was not considered to be a reasonable alternative to the preferred action and its collective impacts were not analyzed in the EA/RIR/IRFA. The no action measure for summer flounder was analyzed in Alternative 1, in combination with preferred measures for scup and black sea bass. The no action measures for scup and black sea bass were considered as part of Alternative 2, in combination with the non-preferred coastwide measure for summer flounder, i.e., the measure that would be implemented if conservation equivalency is not implemented in the final rule.

The Council estimated that the proposed measures could affect any of the 760 vessels possessing a Federal charter/party permit for summer flounder, scup, and/or black sea bass in 2001, the most recent year for which complete permit data are available. Only 368 of these vessels reported active participation in the recreational summer flounder, scup, and/or black sea bass fisheries in 2001.

The effects of the various management measures were analyzed by employing quantitative approaches, to the extent possible. Where quantitative data were not available, the Council conducted qualitative analyses. Although NMFS' Regulatory Flexibility Act guidance recommends assessing changes in profitability as a result of proposed measures, the quantitative impacts were instead evaluated using changes in party/charter vessel revenues as a proxy. This is because reliable cost data are not available for these fisheries. Without reliable cost data, profits cannot be discriminated from gross revenues. As reliable cost data become available, impacts to profitability can be more accurately forecast. Similarly, changes to long-term solvency were not assessed due both to the absence of cost data and because the recreational management measures change annually according to the specification-setting process.

Data from the Marine Recreational Fisheries Statistical Survey (MRFSS) were used to project the number of recreational party/charter vessel trips made in each state. The MRFSS data indicate that anglers fished 30.96 million days in 2002 in the Northeast Region (ME through NC). In the Northeast Region, party/charter anglers comprised about 5 percent of the angler fishing days, and party/charter anglers fishing in MA, NY, NJ, MD, and NC comprised 82 percent of the total projected party/charter effort. The number of trips in each state ranged from approximately 365,500 in NJ to approximately 12,700 trips in ME. The number of trips that targeted summer flounder, scup, and/or black sea bass was identified, as appropriate, for each measure, and the number of trips that would be impacted by the proposed measures was estimated. Finally, the revenue impacts were estimated by calculating the average fee paid by anglers on party/charter vessels in the Northeast Region in 2002 ($40.72 per angler), and the revenue impacts on individual vessels were estimated. The analysis assumed that angler effort and catch rates in 2003 will be similar to 2002.

The Council noted that this method is likely to result in overestimation of the potential revenue losses that would result from implementation of the proposed coastwide measures in these three fisheries for several reasons. First, the analysis likely overestimates the potential revenue impacts of these measures because some anglers would continue to take party/charter vessel trips, even if the restrictions limit their landings. Also, some may engage in catch and release fishing, and others may target other species. It was not possible to estimate the sensitivity of anglers to specific management measures. Second, the universe of party/charter vessels that participate in the fisheries is likely to be even larger than presented in these analyses, as party/charter vessels that do not possess a Federal summer flounder, scup, or black sea bass permit because they fish only in state waters are not represented in the assessments. Considering the large proportion of landings from state waters (approximately 92 percent of summer flounder, 94 percent of scup landings, and 19 percent of black sea bass landings in 2001), it is probable that some party/charter vessels fish only in state waters and, thus, do not hold Federal permits for these fisheries. Third, vessels that hold only state permits likely will be fishing under different, potentially less restrictive, recreational measures for summer flounder and scup in state waters under the Commission's conservation equivalency programs. For all of these reasons, actual party/charter losses may be less than the amounts shown in this assessment.

Impacts of Summer Flounder Alternatives

The proposed action for the summer flounder recreational fishery would limit coastwide catch to 9.28 million lb (4,209 mt) and reduce landings by at least 4.5 percent, compared to 2002, by either deferring management to the states or imposing coastwide Federal measures throughout the EEZ.

There is very little information available to estimate empirically how sensitive the affected party/charter boat anglers might be to the proposed fishing regulations. It is possible that the proposed management measures could restrict the recreational fishery for 2003 and cause a decrease in satisfaction that recreational anglers experience (i.e., via a reduced possession limit, larger minimum fish size, or closed season) and/or demand for party/charter trips. Due to lack of data on angler satisfaction, these effects cannot be quantified.

The impact of the proposed summer flounder conservation equivalency alternative among states is likely to be similar to the level of landings reductions that are required of each state. Landings projections for 2002

indicate that VA is the only state required to reduce summer flounder landings (by 11 percent) in 2003. States other than VA (from ME to NC) do not require any reductions in recreational summer flounder landings if their current regulations are maintained. If the preferred conservation equivalency alternative is effective at achieving the recreational harvest limit, then it is likely to be the only alternative that minimizes economic impacts, to the extent practicable, yet achieves the biological objectives of the FMP. Because states have a choice, it is more rational for the states to adopt conservation equivalent measures that result in fewer adverse economic impacts that to acquiesce to the much more restrictive measures contained in the precautionary default alternative.

The impacts of the non-preferred summer flounder coastwide alternative (in Alternative 2), which proposes a 17–inch (43.2–cm) minimum fish size, a possession limit of four fish per person, and no closed season, were evaluated using the quantitative method described above. Impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2002 that landed at least one summer flounder smaller than 17 inches (43.2 cm), or that landed more than four summer flounder. The analysis concluded that the measures would affect 1 percent or less of the party/charter trips in most states, with state revenue losses identified for MA ($927), Rhode Island (RI) ($15,850), NY ($155,636), NJ ($22,208), DE ($570), MD ($570), VA ($7,362), and NC ($161). (These figures are for all vessels operating in each state rather than for each vessel.) No state revenue losses were identified for ME, New Hampshire (NH), or Connecticut (CT).

The average maximum gross revenue loss per party/charter vessel was estimated to be $9 in MA, $634 in RI, $2,993 in NY, $347 in NJ, $285 in DE, $190 in MD, $409 in VA, and $23 in NC. For the reasons noted above (alternative species, catch and release fishing, etc.), it is very likely that some anglers would continue to take party/charter vessel trips, even if the restrictions limit their landings. Therefore, this method is likely to overestimate the potential revenue impacts of the proposed measures. In addition, an average of 8 percent of recreational summer flounder landings were derived from the EEZ in 2001. Federal coastwide measures would apply to federally permitted vessels wherever they fish. However, the states could potentially implement different recreational measures for summer flounder.

Precautionary default measures are defined as measures that would achieve at least the overall required reduction in landings for each state. The precautionary default measures specified by the Council and Board (in Alternative 3) consists of an 18–inch (45.72–cm) minimum fish size, a possession limit of one fish per person, and no closed season.

The precautionary default measures would reduce state specific landings by a range of 41 percent (DE) to 88 percent (NC). As specified by Framework 2 to the Federal FMP, states that fail to implement conservation equivalent measures would be required to implement precautionary default measures. The state-specific landings reductions associated with the precautionary default measures are substantially higher than the reductions that would be implemented using conservation equivalency. As such, it is expected that states will avoid the impacts of precautionary approach measures by establishing conservation equivalent management measures. Therefore, the precautionary default provision that is included in the conservation equivalency proposal was not analyzed as a separate provision.

Impacts of Scup Alternatives

The proposed action for scup would limit coastwide landings to 4.01 million lb (1,819 mt) and reduce landings by at least 27 percent compared to 2001.

For the preferred scup alternative (in Alternative 1), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2002 that landed at least one scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least one scup during the proposed closed seasons of March 1 through June 30, and December 1 through December 31. The analysis concluded that the measures would affect 10 percent of the party/charter trips in MA and 1 percent or less of the party/charter trips in five states, with statewide revenue losses identified for MA ($421,057), RI ($2,324), NY ($1,829), NJ ($6,475), MD ($25,450), and NC ($8,064).

The average maximum gross revenue loss per party/charter vessel associated with the preferred scup alternative was estimated to be $8,593 in MA, $166 in RI, $59 in NY, $185 in NJ, $25,450 in MD, and $2,688 in NC.

For the scup no action alternative (in Alternative 2), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2002 that landed at least one scup smaller than 10 inches (25.4 cm), that landed more than 20 scup, or that landed at least one scup during the periods of March 1 through June 30, and October 3 through December 31. The analysis concluded that the measures would affect 11 percent of angler trips taken aboard party/charter boats in MA, 4 percent in RI, 5 percent in NY, and less than 1 percent in NJ, DE, MD, and NC, with statewide revenue losses identified for MA ($486,423), RI ($55,664), NY ($702,429), NJ ($67,060), MD ($25,450), and NC ($8,064). No state revenue losses were identified for ME, NH, CT, DE, or VA.

The average maximum gross revenue loss per party/charter vessel associated with this alternative was estimated to be $9,927 in MA, $3,976 in RI, $22,659 in NY, $1,916 in NJ, $25,450 in MD, and $2,688 in NC.

For the scup measures considered in Alternative 3, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2002 that landed at least one scup smaller than 10 inches, that landed more than 50 scup, or that landed at least one scup during the period of March 1 through July 13. The analysis concluded that the measures in this alternative would affect 11 percent of the party/charter trips in MA and 1 percent or less of the party/charter trips in most states, with statewide revenue losses identified for MA ($469,518), RI ($9,576), NY ($81,902), NJ ($19,880), MD ($25,450), and NC ($8,064). No state revenue losses were identified for ME, NH, CT, DE, or VA.

The average maximum gross revenue loss per party/charter vessel associated with this alternative was estimated to be $9,582 in MA, $684 in RI, $2,642 in NY, $568 in NJ, $25,450 in MD, and $2,688 in NC.

Impacts of Black Sea Bass Alternatives

The proposed action for black sea bass would limit coastwide landings to 3.43 million lb (1,557 mt) and reduce landings by at least 27 percent compared to 2002.

For the preferred black sea bass alternative (in Alternative 1), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2002 that landed at least one black sea bass smaller than 12 inches (30.48 cm), that landed more than 25 black sea bass, or that landed at least one black sea bass during the proposed closed seasons of September 2 through September 15, and December 1 through December 31. The analysis concluded that the measures would affect 3 percent of the party/charter trips in NJ, 4 percent in DE, and 1 percent or less in most states, with statewide revenue losses identified for MA ($1,805), RI

($5,404), CT ($368), NY ($20,332), NJ ($441,702), DE ($89,544), MD ($41,331), VA ($19,418), and NC ($364). No state revenue losses were identified for ME or NH.

The average maximum gross revenue loss per party/charter vessel associated with the proposed black sea bass alternative was estimated to be $19 in MA, $193 in RI, $46 in CT, $442 in NY, $8,334 in NJ, $44,772 in DE, $13,777 in MD, $1,022 in VA, and $52 in NC.

For the non-preferred black sea bass measures considered in Alternative 2, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2002 that landed at least one black sea bass smaller than 11.5 inches (29.21 cm), or that landed more than 25 black sea bass. The analysis concluded that the proposed alternative would affect 3 percent of the party/charter trips in DE, 2 percent in NJ, and 1 percent or less in most states, with statewide revenue losses identified for RI ($1,960), CT ($368), NJ ($248,570), DE ($82,988), MD ($16,329), VA ($21,261), and NC ($119). No state revenue losses were identified for ME, NH, MA, or NY.

The average maximum gross revenue loss per party/charter vessel associated with this alternative was estimated to be $70 in RI, $46 in CT, $4,690 in NJ, $41,494 in DE, $5,443 in MD, $1,119 in VA, and $17 in NC.

For the non-preferred black sea bass measures considered in Alternative 3, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2002 that landed at least one black sea bass smaller than 12.5 inches (31.75 cm) or that landed more than 25 black sea bass. The analysis concluded that the measures would affect approximately 5 percent of the party/charter trips in DE, 3 percent in NJ, and 1 percent or less in most states, with statewide revenue losses identified for RI ($1,960), CT ($368), NY ($3,220), NJ ($483,095), DE ($125,132), MD ($40,395), VA ($29,602), and NC ($364). No state revenue losses were identified for ME, NH, or MA.

The average maximum gross revenue loss per party/charter vessel associated with this alternative was estimated to be $70 in RI, $46 in CT, $70 in NY, $9,115 in NJ, $62,566 in DE, $13,465 in MD, $1,558 in VA, and $52 in NC.

Combined Impacts of Summer Flounder, Scup, and Black Sea Bass Alternatives

Potential revenue losses in 2003 could differ for party/charter vessels that land more than one of the regulated species. The cumulative maximum gross revenue loss per vessel varies by the combination of permits held and by state. In RI, for example, revenue losses could reach $993 for vessels that land all three species in 2003, compared to expected revenues for 2002. However, in MD, a vessel that lands all three species could potentially lose up to a maximum of $39,417 in 2003. On average, the largest potential losses were projected for party/charter vessels operating out of MA, NJ, DE, and MD in 2003.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 14, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

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

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.105, the first sentence of paragraph (a) is revised to read as follows:

§ 648.105 Possession restrictions.

(a) Unless otherwise specified pursuant to § 648.107, no person shall possess more than four summer flounder in, or harvested from, the EEZ, unless that person is the owner or operator of a fishing vessel issued a summer flounder moratorium permit, or is issued a summer flounder dealer permit. ***

* * * * *

3. In § 648.107, the first sentence of paragraph (a) introductory text is revised to read as follows:

§ 648.107 Conservation equivalent measures for the summer flounder fishery.

(a) For 2003, the Regional Administrator has determined that conservation equivalent measures shall be implemented by the states for the recreational summer flounder fishery. ***

* * * * *

4. In § 648.122, paragraph (g) is revised to read as follows:

§ 648.122 Time and area restrictions.

* * * * *

(g) *Time restrictions.* Vessels that are not eligible for a moratorium permit under § 648.4(a)(6), and fishermen subject to the possession limit, may not possess scup, except from January 1 through February 28 and from July 1 through November 30. This time period may be adjusted pursuant to the procedures in § 648.120.

5. In § 648.125, the first sentence of paragraph (a) is revised to read as follows:

§ 648.125 Possession limit.

(a) No person shall possess more than 50 scup in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a scup moratorium permit, or is issued a scup dealer permit.***

* * * * *

6. Section 648.142 is revised to read as follows:

§ 648.142 Time restrictions.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit, may not possess black sea bass, except from January 1 through September 1 and September 16 through November 30. This time period may be adjusted pursuant to the procedures in § 648.140.

7. In § 648.143, paragraph (b) is revised to read as follows:

§ 648.143 Minimum sizes.

* * * * *

(b) The minimum size for black sea bass is 12 inches (30.48 cm) TL for all vessels that do not qualify for a moratorium permit, and for party boats holding a moratorium permit, if fishing with passengers for hire or carrying more than five crew members, and for charter boats holding a moratorium permit, if fishing with more than three crew members. The minimum size may be adjusted for recreational vessels pursuant to the procedures in § 648.140.

* * * * *

[FR Doc. 03–12647 Filed 5–20–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 030514123–3123–01; I.D. 041003B]

RIN 0648–AQ76

50 CFR Part 648

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 38

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes measures contained in Framework Adjustment 38 (Framework 38) to the Northeast Multispecies Fishery Management Plan (FMP) that would exempt a fishery from the Gulf of Maine (GOM)/Georges Bank (GB) Regulated Mesh Area mesh size regulations. Framework 38 would establish an exempted small mesh silver hake (Merluccius bilinearis) (whiting) fishery in the inshore GOM. The exempted fishery would be authorized from July 1 through November 30 each year; require the use of specific exempted grate raised footrope trawl gear; establish a maximum whiting possession limit of 7,500 lb (3,402 kg); and include incidental catch restrictions.

DATES: Comments on this proposed rule must be received on or before June 5, 2003.

ADDRESSES: Copies of the Framework 38 document, its Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), the Environmental Assessment, and other supporting documents for the framework adjustment are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. These documents are also available online at *http://www.nefmc.org*.

Written comments on the proposed rule should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Framework 38.'' Comments may also be sent via facsimile (fax) to (978) 281–9135. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, Fishery Policy Analyst, 978–281–9272.

SUPPLEMENTARY INFORMATION: In September 2002, the New England Fishery Management Council's (Council) Whiting Monitoring Committee (WMC) released the 2002 Stock Assessment and Fishery Evaluation (SAFE) Report for small-mesh multispecies (whiting, red hake, and offshore hake), which represents the WMC's third-year review of the whiting management program implemented in Amendment 12 to the FMP. The 2002 SAFE Report also includes the WMC's recommendations regarding the future management of the small mesh multispecies resources. The WMC determined that the fishing mortality objectives of the whiting management program appear to have been achieved, based on the evaluation of relative exploitation indices as a proxy for fishing mortality.

The northern stock of whiting (as well as the northern stock of red hake) is considered to be ''rebuilt,'' or above its target biomass level according to the Amendment 12 overfishing definition. The relative exploitation of northern whiting is far below the target value that the WMC set as a proxy for FMSY, so overfishing is not thought to be occurring. The current relative exploitation index is only 11 percent of the WMC's FMSY proxy. With respect to management thresholds, targets, and biological objectives, the WMC concluded that exploitation of the northern stock of whiting could absorb some increase. As one way to increase exploitation in the northern stock area, the WMC recommended consideration of new exempted fisheries for small mesh multispecies if experimental data demonstrate that these fisheries can minimize regulated species bycatch.

Based on this recommendation, the Council initiated a framework action pursuant to 50 CFR 648.80(a)(8)(ii), which allows additions or deletions to small mesh exemptions in the NE multispecies regulated mesh areas in cases where there may be insufficient data or information to determine, without public comment, the percentage catch of regulated species or small mesh species. This framework adjustment would establish a seasonal exempted grate raised footrope trawl fishery for silver hake (whiting) in the inshore GOM. This action would allow for a transition from a successful experimental fishery for whiting focused on minimizing regulated species bycatch to a more permanent fishery that provides a seasonal small mesh fishing opportunity for vessels in the GOM. The exempted grate raised footrope trawl fishery proposed in this framework adjustment is the product of 8 years of experimental work conducted by the Maine Department of Marine Resources (ME DMR), in cooperation with the fishing industry. The gear itself evolved throughout the course of the experimental fisheries, as different mesh configurations and grate bar spacing were tested. The gear proposed for the exempted fishery in this framework adjustment represents the configuration that encountered the most success minimizing regulated species bycatch when vessels used it to target whiting in the area proposed for exemption. The proposed season (July 1 - November 30) and area (see coordinates below) for this fishery most closely represents the traditional Maine whiting fishery and the area utilized by the fishermen who participated in the experimental whiting grate fisheries.

The biological analyses in Framework 38 indicate that establishing a seasonal grate raised footrope trawl fishery in the inshore GOM would not be expected to significantly impact fishing mortality or rebuilding schedules for any small mesh multispecies or large mesh regulated groundfish stocks. Fishing mortality (F) on whiting in the northern area is very low and the increase in F that would be created by the grate fishery is projected to be very low.

The Groundfish Plan Development Team (PDT) reviewed the grate raised footrope trawl experimental fishery data in the context of juvenile groundfish bycatch and determined that the impacts of this fishery on juvenile groundfish mortality would not likely be significant. The PDT concluded that, based on the experimental data, this fishery would primarily take juvenile American plaice, redfish, witch flounder, and white hake as bycatch. The amount of bycatch would depend in large measure on the amount of effort in the fishery. In terms of weight, data presented in the Framework 38 document indicate that expected regulated species bycatch would be less than 5 percent of the total catch. Using additional data provided by ME DMR from the 2002 experimental fishery, the PDT estimated that the numbers of juvenile fish that may be caught in this fishery could increase the catch of juvenile plaice by 1.5 7 percent and the catch of juvenile witch flounder could increase less than 0.5 percent. While catch-at-age estimates are not available to make these comparisons for redfish and white hake, the PDT expects bycatch of these species to be minimal.

Exempted Grate Raised Footrope Trawl Fishery Area

The proposed area is an inshore area in the GOM extending to the Loran 44500 line and northward along the coast of Maine. This area most closely represents the historical whiting fishery and the area utilized by the fishermen who have participated in the experimental whiting grate fisheries between 1996 and 2002. During the development of this framework adjustment, the Council considered three options for the fishery area, including the proposed area option. The first option was the largest area under consideration and included an offshore component to the proposed area. Another option was the smallest area under consideration and represented a subset of the proposed action where past experimental fishing was concentrated. The proposed option was selected by the Council, following an endorsement by the PDT, even though sampling was not conducted throughout the entire area. The proposed option was selected because there are sufficient similarities (species composition, hydrography, habitat, current flow, bottom topography) between it and the subset where the experiment occurred to suggest that bycatch in the proposed area option may be similar to that observed in the experiments. Thus, the rate of capture of regulated species would not be expected to differ over the proposed area.

Fishing Season

The proposed season for the GOM Grate Raised Footrope Trawl Fishery is July 1- November 30. This period encompasses the traditional seasonal presence of whiting along the coast of Maine in the GOM and the period of documented catch and bycatch during research trials and experimental small mesh fisheries permitted by NMFS between 1996 and 2002. The PDT expressed support for a season from July 1 November 30, based on documented catch rates and experimental data from 2001 and 2002, which were reviewed by the PDT in detail.

During the development of this framework adjustment, the Council considered establishing a season for this fishery from June 1 November 30, but ultimately decided to eliminate the month of June from consideration after evaluating the data. These data show that the coastal whiting fishery started in July and ended in November.

The majority of experimental tows with the proposed sweepless trawl were conducted during October and November 2001 and 2002. Past experience demonstrates that the catches of whiting are generally lower and the bycatch of regulated species is relatively higher during these months than during the summer. Given that the 2001 and 2002 data for the proposed sweepless trawl show low absolute bycatch of regulated species during October and November, the gear should fish with even lower bycatch during the summer.

Gear Specifications

Several gear specifications are proposed for this fishery, including net specifications for the raised footrope trawl that are consistent with those in the Cape Cod Bay whiting fishery, a requirement to use a sweepless trawl, and a requirement to use a Nordmore-style grate with a maximum bar spacing of 50 mm (1.97 inches). A minimum codend mesh requirement of 2.5 inches (6.35 cm) (square or diamond mesh) is also proposed. Vessels would be allowed to use net strengtheners in this fishery, provided that they are consistent with the existing net strengthener provisions for 2.5 inch (6.35 cm) mesh.

Whiting/Offshore Hake Possession Limit

A maximum whiting/offshore hake possession limit of 7,500 lb (3,402 kg) is proposed for this fishery. Vessels using mesh larger than the minimum 2.5 inches (6.35 cm) would not be allowed to possess more than 7,500 lb (3,402 kg) of whiting/offshore hake.

Incidental Catch Restrictions

Incidental catch restrictions are proposed to ensure that the net is fished properly and remains off the ocean bottom. The incidental catch restrictions mirror those incorporated into the Cape Cod Bay raised footrope trawl fishery, with the addition of a prohibition on the possession of dogfish. Vessels participating in the GOM Grate Raised Footrope Trawl Fishery may retain red hake, squid, butterfish, mackerel, alewife, and herring up to the amounts allowed by the regulations for those species, provided they comply with all regulations for those species. The following additional restrictions apply: A prohibition on the possession of regulated species (Atlantic cod, witch flounder, American plaice, yellowtail flounder, winter flounder, windowpane flounder, haddock, pollock, redfish, and white hake), monkfish, lobsters, skates, crabs, longhorn sculpin, sea raven, summer flounder (fluke), ocean pout, and spiny dogfish.

The prohibition on the possession of monkfish, lobsters, and skates would help to ensure that fishermen rig the net correctly, so that the footrope is not in contact with the sea floor and thus, much less likely to catch these species. The prohibition on crabs, longhorn sculpin, sea raven and dogfish is designed to reduce the damage to whiting, a soft bodied fish, from abrasion and puncture, as well as to encourage keeping the footrope off the sea floor. Except for a few juveniles, very few dogfish are retained by the grate raised footrope trawl net, as they are toolarge to pass through the grate.

Annual Review

The PDT would annually review sea sampling data from the fishery and develop recommendations, as necessary, to ensure that groundfish bycatch remains at a minimum. Because this would be a seasonal fishery, the Council could modify the specifications for this fishery through a framework adjustment to the FMP prior to the next season, if the PDT recommended adjustments to address regulated species bycatch.

The Council desires 10–percent observer coverage in this fishery. No later than 2006, NMFS, in consultation with the PDT, would determine if the level of observer coverage is sufficient to monitor catch and bycatch in this fishery with an acceptable level of precision. If practicable, the level of desired observer coverage would be adjusted (increased or decreased) consistent with that analysis. The PDT could recommend adjustments to the level of observer coverage prior to 2006, based on information examined during the annual review described above.

Classification

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

The Council prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the reasons why this action is being considered, and the objectives of and legal basis for this action are contained at the beginning of this section in the preamble. There are no new recordkeeping or reporting requirements proposed in this rule. There are no relevant Federal rules that duplicate, overlap, or conflict with this rule. All vessels that would be impacted by this proposed rulemaking are considered to be small entities; therefore, there will be no disproportionate impacts between large and small entities. A summary of the analysis follows:

The Council considered the no action alternative--not establishing an exempted grate raised footrope trawl

fishery. While there would be no adverse economic impacts on the fishing industry as a result of the no action alternative, the economic opportunities resulting from the proposed action would be foregone.

Slight variations to the proposed action were considered by the Council as follows: Beginning the season in June; increasing the size of the exemption area; or less restrictive gear restrictions. Several of these options (larger area, longer season) may have resulted in increased economic benefits to the participants compared with the proposed action. However, there was sufficient uncertainty regarding bycatch rates of regulated multispecies associated with these options, which the Council considered the risk to associated bycatch species (particularly regulated multispecies) to be too great to warrant further consideration. The uncertainty resulted from the lack of experimental data in the larger area and during the month of June. Because the experiment had not been conducted in the larger area, there were no data to support a decision to allow an exempted fishery in the area outside of the proposed area. Similarly, there were no experimental data during the month of June, but data from May indicated significantly higher bycatch rates than during the proposed season. Due to a lack of data on bycatch rates during the month of June and from the larger area, the exemption could not be justified. Therefore, the Council made a precautionary decision to constrain the exempted fishery to the season and area in which experimental data demonstrated low bycatch rates.

The economic effects of the proposed exempted grate raised footrope trawl fishery are not expected to be significant to the economy as a whole or to the fishing industry in general. However, past experience suggests that approximately 50 vessels could be expected to participate in this exempted fishery, and these vessels would be expected to share in a possible $1 million in increased revenue (an additional $20,000 in annual revenue per participating vessel). Analyses suggest that the initial fishery using the proposed grate raised footrope trawl would not be expected to expand quickly, but would probably allow bait fishing activities to occur and would likely result in activity levels similar to those that occurred in 1996. Whiting market limitations, the characteristics of the grate raised footrope trawl fishery (area, season, etc.), and other factors suggest that a similar number of vessels, with similar characteristics (size, tonnage, homeport) as those that participated in the experimental fisheries, would participate in and benefit from this experimental fishery. The economic benefits, although not significant at the large scale, would be important to participating vessels, especially those along the coast of Maine and in smaller ports adjacent to the the GOM.

List of Subjects in 50 CFR Part 648

Fishing, Fisheries, Reporting and recordkeeping requirements.

Dated: May 15, 2003.

Rebecca Lent,

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

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.80, paragraph (a)(16) is redesignated as paragraph (a)(17) and a new paragraph (a)(16) is added to read as follows:

§ 648.80 Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * * * *

(16) GOM Grate Raised Footrope Trawl Exempted Whiting Fishery. Vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with, use, or possess in the GOM Grate Raised Footrope Trawl Whiting Fishery area from July 1 through November 30 of each year, nets with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements specified in paragraphs (a)(16)(i) and (ii) of this section. The GOM Grate Raised Footrope Trawl Whiting Fishery Area (copies of a chart depicting the area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

GOM GRATE RAISED FOOTROPE TRAWL WHITING FISHERY EXEMPTION AREA

(July 1 through November 30)

Point	N. Lat.	W. Long.
GRF1	43° 15′	70° 35.4′
GRF2	43° 15′	70° 00′
GRF3	43° 25.2′	70° 00′

GOM GRATE RAISED FOOTROPE TRAWL WHITING FISHERY EXEMPTION AREA—Continued

(July 1 through November 30)

Point	N. Lat.	W. Long.
GRF4	43° 41.8′	69° 20′
GRF5	44° 58.8′	69° 20′

(i) *Mesh requirements and possession restrictions.* (A) All nets must comply with a minimum mesh size of 2.5 inch (6.35 cm) square or diamond mesh, subject to the restrictions specified in paragraph (a)(16)(i)(B) of this section. An owner or operator of a vessel participating in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery may not fish for, possess on board, or land any species of fish, other than whiting and offshore hake, subject to the applicable possession limits as specified in paragraph (a)(16)(i)(C) of this section, except for the following allowable incidental species: Red hake; butterfish; herring; mackerel; squid; and alewife.

(B) All nets must comply with the minimum mesh size specified in paragraph (a)(16)(i)(A) of this section. Counting from the terminus of the net, the minimum mesh size is applied to the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.3 m) in length and is applied to the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.3 m) in length.

(C) An owner or operator of a vessel participating in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery may fish for, possess, and land combined silver hake and offshore hake only up to 7,500 lb (3,402 kg). An owner or operator fishing with mesh larger than the minimum mesh size specified in paragraph (a)(16)(i)(A) of this section may not fish for, possess, or land silver hake or offshore hake in quantities larger than 7,500 lb (3,402 kg).

(ii) *Gear specifications.* In addition to the requirements specified in paragraph (a)(16)(i) of this section, an owner or operator of a vessel fishing in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery must configure the vessel's trawl gear as specified in paragraphs (a)(16)(ii)(A) through (C) of this section.

(A) An owner or operator of a vessel fishing in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery must configure the vessel's trawl gear with a raised footrope trawl as specified in paragraphs (a)(9)(ii)(A) through (C) of this section. In addition,

the restrictions specified in paragraphs (a)(16)(ii)(B) and (C) apply to vessels fishing in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery.

(B) The raised footrope trawl must be used without a sweep of any kind (chain, roller frame, or rockhopper). The drop chains must be a maximum of 3/8–inch (0.95 cm) diameter bare chain and must be hung from the center of the footrope and each corner (the quarter, or the junction of the bottom wing to the belly at the footrope). Drop chains must be at least 42 inches (106.7 cm) in length and must be hung at intervals of 8 ft (2.4 m) along the footrope from the corners to the wing ends.

(C) The raised footrope trawl net must have a rigid or semi-rigid grate consisting of parallel bars of not more than 50 mm (1.97 inches) spacing that excludes all fish and other objects, except those that are small enough to pass between its bars into the codend of the trawl. The grate must be secured in the trawl, forward of the codend, in such a manner that it precludes the passage of fish or other objects into the codend without the fish or objects having to first pass between the bars of the grate. The net must have an outlet or hole to allow fish or other objects that are too large to pass between the bars of the grate to exit the net. The aftermost edge of this outlet or hole must be at least as wide as the grate at the point of attachment. The outlet or hole must extend forward from the grate toward the mouth of the net. A funnel of net material is allowed in the lengthening piece of the net forward of the grate to direct catch towards the grate.

(iii) *Annual review*. On an annual basis, the Groundfish PDT will review data from this fishery, including sea sampling data, to determine whether adjustments are necessary to ensure that regulated species bycatch remains at a minimum. If the Groundfish PDT recommends adjustments to ensure that regulated species bycatch remains at a minimum, the Council may take action prior to the next season through the framework adjustment process specified in § 648.90(b), subject to the Administrative Procedures Act.

* * * * *

[FR Doc. 03–12742 Filed 5–20–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 68, No. 98

Wednesday, May 21, 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

Submission for OMB Review; Comment Request

May 16, 2003.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Business-Cooperative Service

Title: Rural Economic Development Loan and Grant Program.

OMB Control Number: 0570–0012.

Summary of Collection: Section 313 of the Rural Electrification Act of 1936 (7 U.S.C. 940(c)) established a loan and grant program. The program provides zero interest loans and grants to Rural Utilities Service (RUS) borrowers for the purpose of promoting rural economic development and job creation projects. The loans and grants under this program may be provided to approximately 1,700 electric and telephone utilities across the country that borrowed funds from RUS. Under this program, the RUS borrowers may receive the loan funds and pass them on to businesses or other organizations.

Need and Use of the Information: The information collected is used to evaluate applications for funding consideration, conduct an environmental review, prepare legal documents, receive loan payments, oversee the operation of a revolving loan fund, monitor the use of funds, enforce other government requirements such as compliance with civil rights regulations. If the information were not collected, the agency would be unable to select the projects that will receive loan or grant funds.

Description of Respondents: Business or other for-profit.

Number of Respondents: 120.

Frequency of Responses: Recordkeeping; reporting: on occasion; annually.

Total Burden Hours: 4,273.

Rural Utilities Service

Title: 7 CFR Part 1778, Emergency and Imminent Community Water Assistance Grants.

OMB Control Number: 0572–0110.

Summary of Collection: The Rural Utilities Service (RUS) is authorized under section 306A of the Consolidated Farm and Rural Development Act, (7 U.S.C. 1926(a)) to provide grants to rural areas and small communities to secure adequate quantities of safe water. Grants made under this program shall be made for 100 percent of the project cost and may be made to public bodies and private nonprofit corporations serving rural areas. Grants can serve rural areas with population not in excess of 5000, and household income should not exceed 100 percent of a State's non-metropolitan median household income.

Need and Use of the Information: RUS will collect the information from applicants applying for grants under 7 CFR part 1778. Applicants must demonstrate that there is an imminent emergency or that a decline occurred within 2 years of the date the application was filed with Rural Development. The information is unique to each borrower and emergency situation.

Description of Respondents: Not-for-profit institutions; State, local or tribal government.

Number of Respondents: 100.

Frequency of Responses: Reporting: on occasion.

Total Burden Hours: 400.

Rural Utility Service

Title: 7 CFR Part 1755, Telecommunications Field Trials.

OMB Control Number: 0572–NEW.

Summary of Collection: Title 7 CFR 1755.3 prescribes the conditions and provision of a field trial. Field trials are contractual obligations that a manufacturer and Rural Utility Service (RUS) telecommunications borrower enter into. They consist of limited field installation of a qualifying product in closely monitored situations designed to determine to RUS' satisfaction the products effectiveness under actual field conditions. RUS will use field trials as a means for determining the operational effectiveness of a new or revised product where such experience does not already exist. Field trial process allows manufacturers a means of immediate access to the RUS borrower market; provides borrowers an opportunity to immediately utilize advance products and a means to safely obtain the necessary information on technically advanced products which will address the products suitability for use in the harsh environment of rural America.

Need and Use of the Information: RUS will use various forms to enter into contractual obligations, to establish agreements by the manufacturer and a borrower, or identify the product(s) that are under field trial. Telecommunication borrowers participate in field trials do so on a voluntary basis. The information is closely reviewed to determine that the products comply with the established

RUS standards and specifications and that the products are otherwise acceptable for use on rural telecommunications systems. Without this information, RUS has no means of determining the acceptability of advanced technology in a manner that is timely enough for RUS borrowers to take advantage of the improved benefits and promise that such products may provide for rural America.

Description of Respondents: Business or other for-profit; not-for-profit institutions.

Number of Respondents: 4.

Frequency of Responses: Reporting: on occasion.

Total Burden Hours: 72.

Animal Plant and Health Inspection Service

Title: Johne's Disease in Domestic Animals; Interstate Movement, 9 CFR Part 80.

OMB Control Number: 0579–0148.

Summary of Collection: Title 21 U.S.C. authorizes sections 111, 114, 114a, 114–1, 115, 120, 121, 125, 126 134a, 134c, 134f, and 134g. These authorities permit the Secretary to prevent, control and eliminate domestic diseases such as Johne's disease, as well as to take actions to prevent and to manage exotic diseases such as foot-and-mouth, classical swine fever, and other foreign diseases. Johne's disease affects cattle, sheep, goats, other ruminants and is incurable and contagious eventually resulting in death. The disease is nearly always introduced into a healthy herd by an infected animal that is not showing symptoms of the disease. Moving livestock affected with Johne's disease requires the use of an owner-shipper statement, official eartags, and State participation in the program. Disease prevention is the most effective method for maintaining a healthy animal population and for enhancing the Animal Plant and Health Inspection Service (APHIS) ability to compete in the world market of animal and animal product trade.

Need and Use of the Information: APHIS will collect information that includes: (1) The number of animals to be moved, (2) the species of the animals, (3) the point of origin and destination, and (4) the consignor and consignee. Without the information APHIS would be unable to ensure that Johne's disease is not spread to healthy animal populations throughout the United States.

Description of Respondents: Business or other for profit.

Number of Respondents: 250.

Frequency of Responses: Reporting on occasion.

Total Burden Hours: 50.

Rural Housing Service

Title: 7 CFR Part 1944–E, Rural Rental and Cooperative Housing Loan Policies, Procedures, and Authorizations.

OMB Control Number: 0575–0047.

Summary of Collection: The Rural Housing Agency (RHS), an agency of the U.S. Department of Agriculture is authorized to make loans to finance rural rental and cooperative housing projects and related facilities under section 515 and 521 of title V of the Housing Act of 1949, as amended. The intent of the program is to provide affordable rental housing for elderly or handicapped persons or families, or other persons and families of low or moderate income in rural areas.

Need and Use of the Information: RHS will collect information using various forms to evaluate the cost, benefits, feasibility and financial performance of the proposed project, as well as the eligibility of the applicant. Failure to collect this information would result in unauthorized Federal assistance being granted.

Description of Respondents: Business or other for-profit; individuals or households; not-for-profit institutions; State, local, or tribal government.

Number of Respondents: 623.

Frequency of Responses: Reporting: On Occasion.

Total Burden Hours: 35,088.

Rural Housing Service

Title: 7 CFR Part 1951–A, Account Servicing Policies.

OMB Control Number: 0575–0075.

Summary of Collection: The Rural Housing Service (RHS) provides supervised credit in the form of Single Family Housing, Multi-Family Housing, and Community Facility loans and grants. Regulation 7 CFR part 1951–A sets forth the policies and procedures, including the collection and use of information, regarding the application of payments on loans made under the programs administered by the agencies and the return of paid-in-full and satisfied promissory notes.

Need and Use of the Information: Borrowers submit information to the local agency office servicing the county in which their operation is located. The agency-servicing official reviews and verifies the information. The information is collected when needed and on an individual case basis.

Description of Respondents: Individuals or households; business or other for-profit.

Number of Respondents: 110.

Frequency of Responses : Reporting: on occasion.

Total Burden Hours: 28.

Animal & Plant Health Inspection Service

Title: Mexican Fruit Fly; Treatments.

OMB Control Number: 0579–0215.

Summary of Collection: The Department of Agriculture is responsible for preventing plant disease or insect pests from entering the United States, preventing the spread of pests and noxious weeds not widely distributed in the United States, and eradicating those imported pests when eradication is feasible. The Mexican fruit fly regulations, contained in 7 CFR 301.64 through 301.64–10 were established to prevent the spread of the Mexican fruit fly to noninfested areas of the United States. The Mexican fruit fly is a destructive pest of citrus and many other types of fruit. The short life cycle of the Mexican fruit fly allows rapid development of serious outbreaks that can cause severe economic losses in commercial citrus-producing areas. The Animal and Plant Health Inspection Service (APHIS) will collect information using form PPQ 519, Compliance Agreement.

Need and Use of the Information: APHIS will collect information to ensure that permit conditions are met, and that proper labeling, marking, and other handling procedures are done before movement of the regulated article. Failure to collect this information would cripple APHIS ability to ensure that citrus and many other types of fruit do not carry Mexican fruit flies.

Description of Respondents: Business or other for-profit; State; local or tribal government.

Number of Respondents: 722.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 462.

Food and Nutrition Service

Title: Report of The Emergency Food Assistance Program (TEFAP) Administrative.

OMB Control Number: 0584–0385.

Summary of Collection: The Common Rule entitled Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (published by the Department as 7 CFR part 3106) sets financial reporting requirements for State agencies administering non-entitlement programs, such as The Emergency Food Assistance Program (TEFAP). The Food and Nutrition Service (FNS) requires state agencies to use the FNS–667, Report of the

Emergency Food Assistance Program. This form is completed quarterly with a close-out report by State agencies administering TEFAP.

Need and Use of the Information: FNS will collect information to ensure that States meet the requirements, that States match all Federal administrative funds that are not passed down to local agencies. Form FNS–667 is used to report how Federal administrative funds are utilized in three separate categories. States may use funds to pay costs incurred by the State agency itself, or to pay costs incurred by local recipient agencies-emergency feeding organizations (EFOs) that distribute USDA commodities to households.

Description of Respondents: State, local, or tribal government; Federal government; farms; not-for-profit institutions; business or other for-profit; individuals or households.

Number of Respondents: 55.

Frequency of Responses: Reporting: Quarterly.

Total Burden Hours: 963.

Sondra A. Blakey,

Departmental Information Collection Clearance Officer.

[FR Doc. 03–12728 Filed 5–20–03; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Beaver Creek Fuels Reduction and Associated Restoration Activities Project, Wallowa-Whitman National Forest, Union County, OR

AGENCY: Forest Service, USDA.

ACTION: Cancellation notice.

SUMMARY: On December 30, 1996, a Notice of Intent (NOI) to prepare an environmental (EIS) for the Beaver Creek Salvage Timber Sale and Other Restoration Projects, on the La Grande Ranger District of the Wallowa-Whitman National Forest, was published in the **Federal Register** (61 FR 68704). The name of this project was later changed on September 5, 1997, to ''Beaver Creek Fuels Reduction and Associated Restoration Activities Project'' in the **Federal Register** (62 FR 46942). A Notice of Availability for the draft EIS was published in the **Federal Register** on November 6, 1998 (63 FR 59988). Forest Service has decided to cancel the preparation of a final EIS analyzing fuel reduction proposals and related activities within the Beaver Creek unroaded area and La Grande Municipal Watershed. The NOI is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Questions maybe addressed to Cindy Whitlock, Resource Analyst, La Grande Ranger District, 3502 Highway 30, La Grande, OR 97850, telephone: 541–962–8501.

Dated: May 8, 2003.

Karyn L. Wood,

Forest Supervisor.

[FR Doc. 03–12702 Filed 5–20–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Sanders County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) to Lolo and Kootenai National Forests' Sanders County Resource Advisory Committee will meet on July 10, at 6:30 p.m., in Thompson Fall, Montana for a business meeting. The meeting is open to the public.

DATES: July 10, 2003, at 6:30 p.m.

ADDRESSES: The meeting will be held at the Thompson Falls Courthouse, 1111 Main Street, Thompson Falls, MT 59873.

FOR FURTHER INFORMATION CONTACT: Lisa Krueger, Designated Forest Official (DFO), District Ranger Plains/Thompson Falls District, Lolo National Forest at (406) 826–4321, Brian Avery, District Ranger Cabinet Ranger District, Kootenai National Forest at (406) 827–3533.

SUPPLEMENTARY INFORMATION: Agenda topics include reviewing the status of selected projects and receiving public comment. If the meeting location is changed, notice will be posted in the local newspaper, including the Clark Fork Valley Press, Sanders County Ledger, Daily Interlake, Missoulian, and River Journal.

Dated: May 13, 2003.

Lisa Krueger,

Designated Federal Official, District Ranger, Plains/Thompson Falls Ranger District.

[FR Doc. 03–12737 Filed 5–20–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's (RBS) intention to request information collection in support of the program for 7 CFR part 1942–G Rural Business Enterprise Grants (RBEG) and Televisions Demonstration Grants.

DATES: Comments on this notice must be received by July 21, 2003 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Amy Cavanaugh, Specialty Lenders Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3225, 1400 Independence Ave. SW., Washington, DC 20250–3225, Telephone (202) 690–2516.

SUPPLEMENTARY INFORMATION:

Title: Rural Business Enterprise Grants and Televisions Demonstration Grants.

OMB Number: 0570–0022.

Expiration Date of Approval: October 31, 2003.

Type of Request: Extension of a currently approved information collection.

Abstract: The objective of the RBEG program is to facilitate the development of small and emerging private businesses in rural areas. This purpose is achieved through grants made by RBS to public bodies and nonprofit corporations. Television Demonstration grants are available to private, nonprofit, public television systems to provide information on agriculture and other issues of importance to farmers and rural residents. The regulation contains various requirements for information from the grantees, and some requirements may cause the grantees to require information from other parties. The information requested is vital for RBS to be able to process applications in a responsible manner, make prudent program decisions, and effectively monitor the grantees' activities to protect the Government's financial interest and ensure that funds obtained from the Government are used appropriately. It includes information to determine eligibility, the specific purpose for which grant funds will be

used, timeframes, who will be carrying out the grant purposes, project priority, applicant experience, employment improvement, and mitigation of economic distress.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.5 hours per response.

Respondents: Nonprofit corporations and public bodies.

Estimated Number of Respondents: 720.

Estimated Number of Responses per Respondent: 12.

Estimated Number of Responses: 8,660.

Estimated Total Annual Burden on Respondents: 22,395.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, at (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (b) the accuracy of the RBS estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: May 12, 2003.

John Rosso,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 03–12760 Filed 5–20–03; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department of Commerce also received a request to revoke one antidumping duty order in part.

EFFECTIVE DATE: May 21, 2003.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, 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) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2002), for administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. The Department also received a timely request to revoke in part the antidumping duty order on Certain Steel Concrete Reinforcing Bars from Turkey.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than April 30, 2004.

	Period to be reviewed
Antidumping Duty Proceedings	
The People's Republic of China: Automotive Replacement Glass Windshields [1], A–570–867	9/19/01–3/31/03
Changchun Pilkington Safety Glass Company, Ltd.	
Dongguan Kongwan Automobile Glass, Ltd.	
Fuyao Glass Industry Group company, Ltd.	
Guilin Pilkington Safety Glass Company, Ltd.	
Peaceful City, Ltd.	
Shanghai Yaohua Pilkington Autoglass Company, Ltd.	
Shenzen CSG Automotive Glass Co., Ltd. (formerly Shenzhen Benxum AutoGlass Co., Ltd.)	
TCG International, Inc.	
Wuhan Yaohua Pilkington Safety Glass Company, Ltd.	
Xinyi Automotive Glass (Shenzhen) Co., Ltd.	
The People's Republic of China: Brake Rotors [2], A–570–846	4/1/02–3/31/03
China National Machinery and Equipment Import & Export (Xianjiang) Corporation, and manufactured by any company other than Zibo Botai Manufacturing Co., Ltd.	
China National Automotive Industry Import & Export Corporation, and manufactured by any company other than Laizhou CAPCO Machinery Co., Ltd.	
Laizhou CAPCO Machinery Co., Ltd., and manufactured by any company other than Laizhou CAPCO Machinery Co., Ltd.	
Laizhou Luyuan Automobile Fittings Co., and manufactured by any company other than Laizhou Luyuan Automobile Fittings Co., or Shenyang Honbase Machinery Co., Ltd.	
Shenyang Honbase Machinery Co., Ltd., and manufactured by any company other than Laizhou Luyuan Automobile Fittings Co. or Shenyang Honbase Machinery Co., Ltd.,	
China National Industrial Machinery Import & Export Corporation	
Laizhou Auto Brake Equipment Co., Ltd.	
Qingdao Gren (Group) Co.	

	Period to be reviewed
Yantai Winhere Auto-Part Manufacturing Co., Ltd.	
Longkou Haimeng Machinery Co., Ltd.	
Zibo Luzhou Automobile Parts Co., Ltd.	
Laizhou Hongda Auto Replacement Parts Co., Ltd.	
Hongfa Machinery (Dalian) Co., Ltd.	
Qingdao Meita Automotive Industry Co., Ltd.	
Shangdong Huanri (Group) General Company	
Longkou TLC Machinery Co., Ltd.	
Zibo Golden Harvest Machinery Limited Company	
Shanxi Fengkun Metalurgical Limited Company	
Xianghe Xumingyuan Auto Parts Co., Ltd.	
Xiangfen Hengtai Brake Systems Co., Ltd.	
Turkey: Certain Steel Concrete Reinforcing Bars, A–489–807 4/1/02–3/31/03.	
Cebitas Demir Celik Endustrisi A.S.	
Cemtas Celik Makina Sanayi ve Ticaret A.S.	
Colakoglu Metalurji A.S.	
Demirsan Haddecilik Sanayi ve Ticaret A.S.	
Diler Demir Celik Endustri ve Ticaret A.S.	
Ege Celik Endustrisi Sanayi ve Ticaret A.S.	
Ege Metal Demir Celik Sanayi ve Ticaret A.S.	
Ekinciler Holding A.S. and Ekinciler Demir Celik San A.S.	
Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S.	
Icdas Celik Enerji Tersane ve Ulasim Sanayi, A.S.	
Iskenderun Iron & Steel Works Co.	
Izmir Demir Celik Sanayi A.S.	
Kaptan Demir Celik Endustrisi ve Ticaret A.S.	
Kardemir—Karabuk Demir Celik Sanayi ve Ticaret A.S.	
Kroman Celik Sanayi A.S.	
Kurum Demir Sanayi ve Ticaret Metalenerji A.S.	
Metas Izmir Metalurji Fabrikasi Turk A.S.	
Nurmet Celik Sanayi ve Ticaret A.S.	
Nursan Celik Sanayi ve Haddecilik A.S.	
Sivas Demir Celik Isletmeleri A.S.	
Tosyali Demir Celik Sanayi A.S.	
Ucel Haddecilik Sanayi ve Ticaret A.S.	
Yazici Demir Celik Sanayi ve Ticaret A.S.	
Countervailing Duty Proceedings: None.	
Suspension Agreements: None.	

[1] If one of the named companies does not qualify for a separate rate, all other exporters of automotive replacement glass windshields from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[2] If one of the named companies does not qualify for a separate rate, all other exporters of brake rotors from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under § 351.211 or a determination under § 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: May 15, 2003.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II for Import Administration.

[FR Doc. 03–12769 Filed 5–20–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–831]

Stainless Steel Sheet and Strip in Coils from Taiwan: Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Extension of time limits for the preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limits for the preliminary results of the antidumping duty administrative review of stainless steel sheet and strip (''SSSS'') from Taiwan.

EFFECTIVE DATE: May 21, 2003.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–6412.

Background

On July 1, 2002, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on SSSS from Taiwan. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 67 FR 44172 (July 1, 2002). On July 30, 2002, Yieh United Steel Corporation (''YUSCO'') and Chia Far Industrial Factory Co. Ltd. (''Chia Far''), Taiwanese producers of subject merchandise, requested that the Department conduct an administrative review of their sales of subject merchandise during the period of review (''POR''). On July 31, 2002, petitioners [1] requested that the Department conduct an administrative review of Chia Far, YUSCO, Tung Mung Development Co., Ltd. (''Tung Mung'') and Ta Chen Stainless Pipe Co., Ltd. (''Ta Chen''). On August 27, 2002, the Department published a notice of initiation of a review of SSSS from Taiwan covering the period July 1, 2001 through June 30, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 67 FR 55000 (August 27, 2002). On March 24, 2003, the Department extended the time limit for the preliminary results of this administrative review by 90 days. *See Stainless Steel Sheet and Strip in Coils from Taiwan: Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review,* 68 FR 14195 (March 24, 2003). The preliminary results of review are currently due no later than July 1, 2003.

Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act'') states that the administering authority shall make a preliminary determination within 245 days after the last day of the month in which occurs the anniversary of the date of publication of the order, finding, or suspension agreement for which the review under section 751(a)(1) is requested. If it is not practicable to complete the review within the foregoing time, the administering authority may extend that 245-day period to 365 days. Completion of the preliminary results within 245-day period is impracticable for the following reasons: (1) This review requires the Department to analyze YUSCO's complex affiliations and corporate relationships; (2) this review requires the Department to gather and analyze a significant amount of information pertaining to Chia Far's manufacturing costs due to new structural plant changes affecting the POR; (3) this review involves a large number of transactions and complex adjustments; and (4) this review involves examining complex relationships between the producers and their customers and suppliers.

Because it is not practicable to complete this review within the time specified under the Act, we are extending the due date for the preliminary results by an additional 30 days until July 31, 2003, in accordance with section 751(a)(3)(A) of the Act. The final results continue to be due 120 days after the publication of the preliminary results. This notice is issued and published in accordance with section 751(a)(3)(A) of the Act, and section 351.213(h)(2) of the Department's regulations.

Dated: May 14, 2003.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–12768 Filed 5–20–03; 8:45 am]

BILLING CODE 3510–DS–P

[1] Petitioners are Allegheny Ludlum Corporation, AK Steel Corporation, Butler Armco Independent Union, J&L Specialty Steel, Inc., United States Steelworkers of America, AFL–CIO/CLC, and Zanesville Armco Independent Organization.

DEPARTMENT OF COMMERCE

[I.D. 051603A]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Commercial Harvesters and Recreational Party and Charter Boat Socio-cultural and Economic Data Collection Pilot.

Form Number(s): None.

OMB Approval Number: 0648–0400.

Type of Request: Regular submission.

Burden Hours: 793.

Number of Respondents: 1,555.

Average Hours Per Response: 15 minutes for an interview, 15 minutes for a vessel captain/owner to gather business information.

Needs and Uses: This is a request to extend Paperwork Reduction Act approval for data collection for the Socio-Economic Pilot Study sponsored by the Atlantic Coast Cooperative Statistics Program (ACCSP) and conducted by the National Marine Fisheries Service. Due to a one year delay in initiating the project, data collection efforts must be extended through June 30, 2004 to allow for completion of the proposed data collection cycle.This pilot study is designed to develop socio-cultural and economic information systems for commercial and recreational fisheries. Three specific arenas will be addressed during this study. The first is to identify and address potential problems with the mechanics of implementing the system. These include all data gathering, entry, and storage activities as well as the ability to link the data to all other ACCSP data. The second is to carry out a field test of the survey instrument across the different cultural and socio-economic contexts in which the data-gathering system must eventually be implemented. Field testing questions and instruments is standard procedure in preparing for any survey research. The third arena is to verify the economic model. Initial data gathering in the summer flounder fishery will be carried out and the data used for test runs of several standard economic models.

Affected Public: Business or other for-profit organizations, individuals or households.

Frequency: Quarterly, semi-annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 15, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–12738 Filed 5–20–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Distribution of Digital Navigation and Associated Data; NOAA Electronic Navigational Charts® Released as Nautical Charts

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: NOAA's National Ocean Service (NOS) is announcing the distribution of certain digital navigation and related data to the public on the Internet. In July 2001, NOS began posting its Electronic Navigational Charts (NOAA ENCs®) on the Internet. Now NOS is or will be making digital versions of the U.S. Coast Pilot®, Tide and Current Tables, Shoreline Data and certain other products available on the Internet. These products have primary application in navigation and in a broad range of Geographic Information System activities. The electronic distribution of navigational and related data will supplement other methods of distribution; paper versions of these products are expected to continue to be available from existing sources.

A primary purpose of providing this information and data on the Internet is to improve marine safety and reduce the risk of accidents, including injury to people, property, the environment and local economies. Providing mariners with more timely and accurate information via the Internet is expected to improve their decision-making capability in an often rapidly changing marine environment.

In addition, NOS is announcing its intention to remove the ''provisional'' label for NOAA ENCs® distributed on the Internet. Once that label is removed, a NOAA ENC® will constitute a ''nautical chart'' for the purposes of the 1974 International Convention for the Safety of Life at Sea, as previously announced in **Federal Register**, Volume 67, Number 111, pages 39695–39696, published June 10, 2002.

DATES: Comments on this action should be submitted on or before 5 p.m., EST, June 20, 2003.

ADDRESSES: Comments in writing should be submitted to Director, Office of Coast Survey, National Ocean Service, NOAA (N/CS), 1315 East-West Highway, Silver Spring, MD 20910. Written comments may be FAXed to (301) 713–4019. Comments by e-mail should be submitted to *ECDIS@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Mike Brown, Electronic Chart Products Manager, Marine Chart Division, Office of Coast Survey, NOS/NOAA, (301) 713–2724, Extension 153, FAX, (301) 713–4516.

SUPPLEMENTARY INFORMATION: Under 33 U.S.C. 883a *et seq.* NOS is responsible for providing nautical charts and related information for safe navigation and other purposes. In fulfilling this responsibility, NOS collects and compiles hydrographic, tidal and current, geodetic and a variety of other data and information. In the past, NOS made this information available to the public primarily by publishing and distributing various paper charts and other printed materials. It is now technologically feasible to disseminate much of this information in digital format on the Internet and NOS intends to do so when it is reasonable and feasible to take such action. NOAA consulted with the U.S. Coast Guard concerning its proposal to make digital navigation data, including NOAA ENCs®, available on the Internet. The Coast Guard concurred that such action would promote marine safety.

NOS digital products that are being distributed are expected to be distributed on the Internet include but are not limited to NOAA ENCs®, the U.S. Coast Pilots®, Water Level, Observations, Water Level Time Series Plots, Predicted Tides and Tidal Currents, Tidal Predictions Program, Published Bench Mark Sheets with Tidal Datums, Harmonic Constituents, Coastal Survey Maps/Shoreline Data, CORS—Global Positioning System Continuously Operating Reference Station data, Geodetic Control Data Sheets, Tidal and Orthometric Elevations, Gravity Data, Online User Positioning Service, Geoid data, and various types of positioning and conversion software such as HTDP, NADCON, LVL DH, and Surface Gravity Prediction.

NOS data that might be affected by the above announcement is posted at the following NOAA Web sites: *http://chartmaker.ncd.noaa,gov. http://co-ops.nos.noaa.gov;* and *http://www.ngs.noaa.gov* NOS may also release other present or future nautical products or data on the Internet; NOS Web sites.

One of the primary reasons for making digital navigational and related data available to the public on the Internet is to promote safe navigation. In the past, mariners would have to wait until new editions of nautical charts, the U.S. Coast Pilot® and other publications were released before they would have access to updated information. Today's digital technologies and widespread access to the Internet provide the means to make this information available to the mariner much sooner, sometimes in near real-time. In addition, often much more accurate or complete information can be distributed in digital format that could be provided in a printed document.

Releasing NOS digital navigation data and information available on the Internet is expected to encourage commercial mariners, recreational boaters and others to use the most accurate and complete digital information available. Digital navigation data that are easily accessible is in demand; if NOS data were not available or accessible, people would be expected to utilize less reliable, less accurate or less complete data with the attendant increased risks.

Another safety benefit from the release of these data is that it may encourage the development of new and better navigation products that utilize the best data available. For example, several navigation software programs have been developed to utilize products such as NOAA ENCs®.

A secondary benefit of releasing these data on the Internet is that it is expected to promote the open and efficient exchange of public, scientific and technical information. The public generally, not just mariners, has an interest in these data. Internet access to NOS navigation and other data will maximize dissemination of this information to ocean engineers, marine scientists, emergency response personnel, a mangers and policy makers, including those in state and local governments, academia and other institutions as well as the private sector. Such action may promote scientific advances, sound marine and coastal management, and commercial development of new and better navigation or other products.

Such action is designed to be consistent with section 2 of the Paperwork Reduction Act, 44 U.S.C. 3506(d) and Office of Management and Budget Circular A–130 regarding information management and dissemination and is expected to maximize the usefulness of government

data. Currently NOAA collects, compiles and maintains these data and little or no expense will be incurred in making these data available to the public on the Internet.

Generally, NOAA does not intend to limit access to, or restrict use of the data it makes available on the Internet. Of course, sensitive data will be reviewed and if there are homeland security issues, proprietary concerns, privacy implications or similar issues, such data may not be placed on the Internet. In addition, in some cases where the data or use of the data are not completely reliable, where procedures for updating the data are not fully tested and operational, where the public may lack familiarity with the use of those data and associated products, or for other reasons, NOS may release the data on a provisional basis with a statement that the data are not to be used for navigational purposes. This was the case with the original release of NOAA ENCs® in 2001.

From all indications, mariners and other users are now familiar with NOAA ENCs®. The response to NOAA ENCs on the Internet has been overwhelmingly positive, with more than 480,000 individual files downloaded. NOAA ENCs were designed to comply with International Hydrographic Organization's S–57 ENC Product Specification and have been greatly successful with a notable absence of significant errors. Further, the NOAA ENC® files are now being updated for Notices to Mariners on a monthly basis and then posted to the NOAA ENC® Web page, available for downloading. Consequently, NOS will remove the ''provisional'' label for NOAA ENCs® distributed on the Internet in the near future. Once that label is removed, a NOAA ENC® will constitute a ''nautical chart'' for the purposes of the 1974 International Convention for the Safety of Life at Sea.

In the future NOAA intends to monitor the release and use of its data and may remove, or in some cases, add provisional use labels or other warnings or restrictions through an announcement on the Web site associated with the data.

NOS does not seek to limit access or restrict use of the data it provides on the Internet for most purpose, but it is concerned about the use of these data in situations that may compromise marine safety. Consequently, NOS plans to work with mariners, product developers and others to establish specific procedures for users who wish to incorporate NOS data into certain navigation products. Thus, in order for a value-added navigational product to be certified, the developer may be required to establish a process to ensure that NOS data are incorporated into the product without compromise to the data quality or data lineage.

NOS intends to issue standards governing the certification process for derived navigational products. Among the standards under consideration are: (1) The operation of a quality assurance system that is in essential compliance with a recognized quality standard, such as ISO 9000 series or equivalent, and (2) the certification by a U.S. Coast Guard-approved quality standards organization that results in products being consistently manufactured to the same specification.

NOS is publishing this notice consistent with section 8.a(6)(j) of the Office of Management and Budget Circular A–130.

Dated: May 14, 2003.

Jamison S. Hawkins,

Acting Assistant Administrator, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 03–12703 Filed 5–20–03; 8:45 am]

BILLING CODE 3510–JE–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051303D]

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings in Kodiak, AK.

DATES: The meetings will be held June 9 through June 18, 2003. See **SUPPLEMENTARY INFORMATION** for specific dates and times. All meetings are open to the public except executive sessions.

ADDRESSES: The meetings will be held at the Best Western Kodiak Inn, 236 Rezanof, Kodiak, AK 99615.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, phone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Council's Advisory Panel will begin at 8 a.m., Monday, June 9 and continue through Saturday, June 14, 2003. The Scientific and Statistical Committee will begin at 8 a.m. on Monday, June 9, and continue through Wednesday, June 11, 2003.

The Council will begin its plenary session at 8 a.m. on Wednesday, June 11 continuing through Wednesday June 18.

Council Plenary Session: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports
(a) Executive Director's Report
(b) Trawl 3rd Wire Report
(c) NMFS Management/Enforcement Reports
2. Gulf of Alaska Rationalization (GOA): Review discussion papers and refine alternatives, elements and options.
3. Programmatic Groundfish Supplemental Environmental Impact Statement (PGSEIS): Select draft preferred alternative.
4. Essential Fish Habitat (EFH)/ Habitat Areas of Particular Concern (HAPC): Update on Supplemental Environmental Impact Statement development, report on Coral/Sponge bycatch limits, Committee report on HAPC process.
5. Bering Sea/Aleutian Island (BSAI) Pacific Cod Allocation: Final action on Amendment 77 (fixed gear allocations).
6. Improved Retention/Improved Utilization (IR/IU): Review alternatives and options for Trailing Amendment A (multi-species co-ops for head and gut catcher/processor sector and species allocation). Final action on Trailing Amendment C (minimum retention standards).
7. Steller Sea Lion (SSL): SSL Mitigation Committee Report.
8. Groundfish Management: Target/ Non-target workgroup report. BSAI Cod depletion study - Review 1st year results.
9. Crab Management: Initial Review Pribilof Blue King Crab Rebuilding Plan.
10. Staff Tasking: Review tasking and committees and provide direction to staff.
11. Other Business: Approve updated Statement of Organization Practices and Procedures (SOPPs).

Scientific and Statistical Committee (SSC): The SSC agenda will include the following issues:

1. Programmatic Groundfish SEIS
2. Essential Fish Habitat
3. Improved Retention/Improved Utilization
4. Groundfish Management
5. Crab Management

Advisory Panel: The Advisory Panel will address the same agenda issues as the Council.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, these issues may not be the subject of formal Council action during the meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at 907–271–2809 at least 7 working days prior to the meeting date.

Dated: May 14, 2003.

Richard W. Surdi,

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

[FR Doc. 03–12740 Filed 5–20–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051403D]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Gulf Council) and South Atlantic Fishery Management Council (South Atlantic Council) in cooperation with the Florida Marine Research Institute (FMRI) of the Florida Fish and Wildlife Conservation Commission (FFWCC) and the Southeast Fisheries Science Center of the National Marine Fisheries Service (NOAA Fisheries) will convene a yellowtail snapper Stock Assessment Workshop as part of the 2003 Southeast Data Assessment and Review (SEDAR) process. The workshop will be held from Monday June 9, 2003 through Friday, June 13, 2003.

DATES: The workshop will be held from Monday June 9, 2003 through Friday, June 13, 2003.

ADDRESSES: The meeting will be held at the Florida Marine Research Institute, 100 Eighth Avenue, Southeast, St. Petersburg, FL 33701–5095; telephone: 727–896–8626.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Steele, NMFS Southeast Regional Office, 9721 North Executive Center Drive, St. Petersburg, FL 33702; telephone: 727–570–5305.

SUPPLEMENTARY INFORMATION: The Stock Assessment Workshop will focus on the single yellowtail snapper stock off the U.S. mainland that falls within the jurisdictional boundaries of the Gulf Council, South Atlantic Council, and FFWCC. Yellowtail snapper in the Caribbean appear to be a different population based on preliminary genetic analyses, and will not be included in this assessment.

The Stock Assessment Workshop is the second step in the three-part SEDAR process. The first step was the Data Review Workshop (held March 3–7, 2003) and involved the assembly and review of available fishery data, life history information, analytical techniques and models for the stock assessment. The second step is the Stock Assessment Workshop, where data sets from the Data Review Workshop are used with population dynamics modeling techniques to determine the status of stocks. The third step of SEDAR is the Stock Assessment Review Workshop (to be scheduled in July, 2003), where the stock assessment is reviewed by an independent peer review panel.

The Stock Assessment Workshop will convene a select group of scientists, industry representatives, and other knowledgeable persons to review the available data and the yellowtail snapper stock assessment presented by FFWCC biologists. The workshop participants will prepare a written Workshop report that provides an overview of the analyses, general findings, and recommendations of the workshop. As part of the Stock Assessment Workshop, the Gulf Council will convene a meeting of its Reef Fish Stock Assessment Panel (RFSAP). The RFSAP is composed of biologists who are trained in the specialized field of population dynamics. Based on its review of the yellowtail snapper stock assessment, the RFSAP may recommend whether to declare the stocks overfished and/or undergoing overfishing, and may recommend a range of acceptable biological catch (ABC) for 2004. The RFSAP may also recommend management measures to achieve the ABC. The RFSAP may also make recommendations pertaining to its role in future SEDAR meetings.

The RFSAP will hold it's own session in conjunction with the Stock Assessment Workshop to review the following issues: (1) role of the RFSAP in the SEDAR process; (2) review of alternatives for revision of the rebuilding plan for Gulf red snapper, and; (3) new information on Goliath grouper if that data is available.

Both the Stock Assessment Workshop report and the conclusions of the RFSAP will be reviewed by the Stock Assessment Review Workshop, the Council's Standing and Special Reef Fish Scientific and Statistical Committee (SSC), (which will be convened as part of the Stock Assessment Review Workshop), the Socioeconomic Panel (SEP), and the Reef Fish Advisory Panel (AP). The reports and recommendations of these groups will then be presented to the Gulf Council, which may set year a 2004 total allowable catch (TAC) as well as other management measures for the Gulf of Mexico exclusive economic zone component of the yellowtail snapper stock.

A copy of the agenda for the RFSAP portion of the meeting can be obtained by calling 813–228–2815.

Although other issues not on the agenda may come before the RFSAP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the RFSAP will be restricted to those issues specifically identified in the agenda listed as available by this notice.

The RFSAP meeting is open to the public and is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**)by June 30, 2003.

Dated: May 15, 2003.

Richard W. Surdi,

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

[FR Doc. 03–12741 Filed 5–20–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051203D]

Permits; Foreign Fishing

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

ACTION: Notice of receipt of foreign fishing application.

SUMMARY: NMFS publishes for public review and comment a summary of an application submitted by the Government of the Russian Federation requesting authorization to conduct fishing operations in the U.S. Exclusive Economic Zone (EEZ) in 2003 under provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

ADDRESSES: Comments may be submitted to NMFS, Office of Sustainable Fisheries, International Fisheries Division, 1315 East-West Highway, Silver Spring, MD 20910; and/or to the Regional Fishery Management Councils listed here:

Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01905, Phone (978) 465–0492, Fax (978) 465–3116;

Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, 300 South New Street, Dover, DE 19904, Phone (302) 674–2331, Fax (302) 674–4136.

FOR FURTHER INFORMATION CONTACT: Robert A. Dickinson, Office of Sustainable Fisheries, (301) 713–2276.

SUPPLEMENTARY INFORMATION: In accordance with a Memorandum of Understanding with the Secretary of State, NMFS publishes, for public review and comment, summaries of applications received by the Secretary of State requesting permits for foreign fishing vessels to fish in the U.S. EEZ under provisions of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*).

This notice concerns the receipt of an application from the Government of the Russian Federation requesting authorization to conduct joint venture (JV) operations in 2003 in the Northwest Atlantic Ocean for Atlantic mackerel and Atlantic herring. The factory ship DAURIYA is identified as the Russian vessel that would receive Atlantic mackerel and Atlantic herring from U.S. vessels in JV operations.

Dated: May 14, 2003.

Bruce C. Morehead,

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

[FR Doc. 03–12739 Filed 5–20–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Grant of Interim Extension of the Term of U.S. Patent No. 4,567,264; Ranolazine

AGENCY: Patent and Trademark Office.

ACTION: Notice of interim patent term extension.

SUMMARY: The United States Patent and Trademark Office has issued a certificate under 35 U.S.C. 156(d)(5) for a one-year interim extension of the term of U.S. Patent No. 4,567,264.

FOR FURTHER INFORMATION CONTACT: Karin Ferriter by telephone at (703)306–3159; by mail marked to her attention and addressed to Mail Stop Patent Ext., Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450; by fax marked to her attention at (703)872–9411, or by e-mail to *Karin.Ferriter@uspto.gov.*

SUPPLEMENTARY INFORMATION: Section 156 of title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to a year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On March 5, 2003, patent owner Roche Palo Alto LLC, timely filed an application under 35 U.S.C. 156(d)(5) for an interim extension of the term of U.S. Patent No. 4,567,264. The patent claims the active ingredient ranolazine (Ranexa™). The application indicates that a New Drug Application for the human drug product ranolazine has been filed and is currently undergoing regulatory review before the Food and Drug Administration for permission to market or use the product commercially.

Review of the application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156. Since it is apparent that the regulatory review period will continue beyond the original expiration date of the patent (May 18, 2003), the term of the patent is extended under 35 U.S.C. 156(d)(5) for a term of one year, *i.e.*, until May 18, 2004.

Dated: May 9, 2003.

James E. Rogan,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 03–12729 Filed 5–20–03; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Procedures for Considering Requests from the Public for Textile and Apparel Safeguard Actions on Imports from China

May 19, 2003.

AGENCY: The Committee for the Implementation of Textile Agreements (The Committee).

ACTION: Notice of Procedures

SUMMARY: This notice sets forth the procedures the Committee for the Implementation of Textile Agreements (the Committee) will follow in considering requests from the public for textile and apparel safeguard actions as provided for in the Report of the Working Party on the Accession of China to the World Trade Organization (the Accession Agreement). The Committee hereby notifies interested parties of the procedures it will follow in considering requests.

EFFECTIVE DATE: May 21, 2003.

ADDRESS: Request must be submitted to: the Chairman, Committee for the Implementation of Textile Agreements, Room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Ten copies of any such request must be provided.

FOR FURTHER INFORMATION CONTACT: William Dulka, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

BACKGROUND:

The Accession Agreement textile and apparel safeguard allows the United States and other World Trade Organization Member countries that believe imports of Chinese origin textile and apparel products are, due to market disruption, threatening to impede the orderly development of trade in these

products to request consultations with China with a view to easing or avoiding such market disruption. Upon receipt of the request, China has agreed to hold its shipments to a level no greater than 7.5 percent (6 percent for wool product categories) above the amount entered during the first 12 months of the most recent 14 months preceding the request for consultations. The United States may implement such a limit. Consultations with China will be held within 30 days of receipt of the request for consultations, and every effort will be made to reach agreement on a mutually satisfactory solution within 90 days of receipt of the request for consultations. If agreement on a different limit is reached, the Committee will issue a **Federal Register** Notice containing a directive to the Bureau of Customs and Border Protection that implements the negotiated limit.

The limit is effective beginning on the date of the request for consultations and ending on December 31 of the year in which consultations were requested, or where three or fewer months remained in the year at the time of the request for consultations, for the period ending 12 months after the request for consultations. No limit may remain in effect beyond one year, without reapplication, unless otherwise agreed between the United States and China. No limit may be applied to the same product at the same time under these procedures and under the product-specific China safeguard implemented by Section 421 of the Trade Act of 1974 (19 U.S.C. 2451).

In order to facilitate the implementation of the Accession Agreement textile and apparel safeguard, the Committee has determined that it is appropriate to publish procedures it will follow in considering requests for Accession Agreement textile and apparel safeguard actions. However, the Committee has determined that actions taken under this safeguard fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1), and this notice does not waive that determination. These procedures are not subject to the requirement to provide prior notice and opportunity for public comment, pursuant to 5 U.S.C. 553(a)(1) and 553(b)(A).

1. Requirements for Requests.

The Committee will review requests from the public for Accession Agreement textile and apparel safeguard actions on imports of Chinese origin textile and apparel products (such products must have been covered by the WTO Agreement on Textiles and Clothing as of the date the WTO Agreement entered into force) sent to the Chairman, Committee for the Implementation of Textile Agreements, Room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230. Ten copies of any such request must be provided. The Committee will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. To the extent that business confidential information is provided, two copies of a non-confidential version must also be provided, in which business confidential information is summarized or, if necessary, deleted. Within 15 working days of receipt of a request, the Committee will determine whether the request provides the information necessary for the Committee to consider the request in light of the considerations set forth below. If the request does not, the Committee will promptly notify the requester of the reasons for this determination and the request will not be considered. However, the Committee will reevaluate any request that is resubmitted with additional information.

Consistent with longstanding Committee practice in considering textile safeguard actions, requests may be filed by an entity (which may be a trade association, firm, certified or recognized union, or group of workers) that is representative of either: (A) a domestic producer or producers of a product that is a like or directly competitive with the subject Chinese textile or apparel product; or (B) a domestic producer or producers of a component used in the production of a product that is like or directly competitive with the subject Chinese textile or apparel product.

A request will only be considered if the request includes the specific information set forth below in support of a claim that the Chinese origin textile or apparel product is, due to market disruption, threatening to impede the orderly development of trade in like or directly competitive products.

A. Product description. Name and description of the imported product concerned, including the category or categories or part thereof of the U.S. Textile and Apparel Category System (see ''Textile Correlation'' at http://otexa.ita.doc.gov/corr.htm) under which such product is classified, the Harmonized Tariff Schedule of the United States subheading(s) under which such product is classified, and the name and description of the like or directly competitive domestic product concerned.

B. Import data. The following data, in quantity by category unit (see ''Textile Correlation''), on total imports into the United States and imports from China into the United States:

* Annual data for the most recent five full calendar years for which such data are available;

* Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g. January-March 2002, April-June 2002 and January-March 2001, April-June 2001).

The data should demonstrate that imports of Chinese origin textile and apparel products that are like or directly competitive with the product produced by the domestic industry concerned are increasing rapidly in absolute terms.

C. Production Data. The following data, in quantity by category unit (see ''Textile Correlation''), on United States domestic production of the like or directly competitive products of U.S. origin indicating the nature and extent of market disruption:

* Annual data for the most recent five full calendar years for which such data are available;

* Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g. January-March 2002, April-June 2002 and January-March 2001, April-June 2001).

If the like or directly competitive product(s) of U.S. origin does not correspond to a category or categories of the U.S. Textile and Apparel Category system for which production data are available from official statistics of the U.S. Department of Commerce (see ''U.S. Imports, Production, Markets, Import Production Ratios and Domestic Market Shares for Textile and Apparel Product Categories'' at website: http://otexa.ita.doc.gov/ipbook.pdf), the requester must provide a complete listing of all sources from which the data were obtained and an affirmation that to the best of the requester's knowledge, the data represent substantially all of the domestic production of the like or directly competitive product(s) of U.S. origin. In such cases, data should be reported in the first unit of quantity in the Harmonized Tariff Schedule of the United States (http://dataweb.usitc.gov/SCRIPTS/tariff/toc.html) for the Chinese origin textile and/or apparel products and the like or directly competitive products of U.S. origin.

D. Market Share Data. The following data, in quantity by category unit (see ''Textile Correlation''), on imports from China as a percentage of the domestic market (defined as the sum of domestic production of like or directly competitive products and total imports); on total imports as a percentage of the domestic market; and on domestic production of like or directly competitive products as a percentage of the domestic market:

* Annual data for the most recent five full calendar years for which such data are available;

* Quarterly data for the most recent year for which such data is partially available, and quarterly data for the same quarter(s) of the previous year (e.g. January-March 2002, April-June 2002 and January-March 2001, April-June 2001).

E. Additional Information. A description of how the Chinese origin textile and apparel product(s) have adversely affected the domestic industry producing like or directly competitive articles, such as the effect of imports from China on prices in the United States or any other data deemed to be pertinent.

2. Consideration of Requests.

If the Committee determines that the request provides the information necessary for it to be considered, the Committee will cause to be published in the **Federal Register** a notice seeking public comments regarding the request, which will include the request and the date by which comments must be received. The **Federal Register** notice and the request, with the exception of information marked ''business confidential'', will be posted by the Department of Commerce's Office of Textiles and Apparel on the Internet (otexa.ita.doc.gov). The comment period shall be 30 calendar days. To the extent business confidential information is provided, a non-confidential version must also be provided, in which business confidential information is summarized or, if necessary, deleted. Comments received, with the exception of information marked ''business confidential'', will be available in the Department of Commerce's Trade Reference Room for review by the public. If a comment alleges that there is no market disruption or that the subject imports are not the cause of market disruption, the Committee will closely review any supporting information and documentation, such as information about domestic production or prices of like or directly competitive products. In the case of requests submitted by entities that are not the actual producers of a like or directly competitive product, particular consideration will be given to comments representing the views of actual producers in the United States of a like or directly competitive product.

With respect to any request considered by the Committee, the Committee will make a determination within 60 calendar days of the close of the comment period as to whether the Committee will request consultations with China. If the Committee is unable to make a determination within 60 calendar days, it will cause to be published in a notice in the **Federal Register**, including the date by which it will make a determination. If the Committee makes a negative determination, it will cause this determination and the reasons therefore to be published in the **Federal Register**. If the Committee makes an affirmative determination that imports of Chinese origin textiles and apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products, the Committee will request consultations with China with a view to easing or avoiding such market disruption. Consultations with China will be held within 30 days of receipt of the request for consultations, and every effort will be made to reach agreement on a mutually satisfactory solution within 90 days of receipt of the request for consultations. Immediately after the Chinese Government receives the requests for consultations, the Committee will cause to be published a notice in the **Federal Register** that such consultations have been requested. The notice will identify quantitative limits on imports into the United States of Chinese origin textile and apparel products subject to the request for consultations. The notice will further provide that, absent a mutually satisfactory solution, the limits will terminate on December 31 of the year in which the request for consultations was made, unless three or fewer months remain in that year at the time of the request. If three or fewer months remain in the year at the time of the request, the notice will provide that, absent a mutually satisfactory solution, the limits will terminate one year from the date on which consultations were requested. The quantitative limits identified in the notice shall be 7.5 percent (6 percent for wool products) above the amount of Chinese origin textile and apparel products subject to the request for consultations entered into the United States during the first 12 months of the most recent 14 months preceding the month in which the request for consultations was made. The notice also will contain a summary statement of the reasons and justifications for the request for consultations with China.

3. Self Initiation. The Committee may, on its own initiative, consider whether imports of Chinese origin textile and apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products. In such considerations, the Committee will follow procedures consistent with those set forth in Section 2 of this notice, including causing to be published in the **Federal Register** a notice seeking public comment regarding the action it is considering.

4. Reapplication. Under the Accession Agreement, no action may remain in effect beyond one year, without reapplication, unless otherwise agreed between the United States and China. Reapplication will only take place if the Committee makes a new affirmative determination that imports of Chinese origin textiles and apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products. In considering requests or in considerations begun on its own initiative for reapplication, the Committee will follow procedures consistent with those set forth in this notice.

5. Business Confidential Information. Public Reading Room. The Committee will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. To the extent that business confidential information is provided, two copies of a non-confidential version must also be provided, in which business confidential information is summarized or, if necessary, deleted. The Committee will make available to the public non-confidential versions of the request that is being considered, non-confidential versions of any public comments received with respect to a request, and, in the event consultations are requested, the statement of the reasons and justifications for the request subsequent to the delivery of the statement to China.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.03–12893 Filed 5–20–03; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Navy

Withdrawal of Surplus Land at a Military Installation Designated for Realignment: Naval Air Station (NAS), Key West, FL

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This notice provides information on withdrawal of surplus property at NAS Key West, FL.

FOR FURTHER INFORMATION CONTACT: Richard A. Engel, Head, BRAC Real Estate Section, Naval Facilities Engineering Command, 1322 Patterson Ave. SE., Suite 1000, Washington Navy Yard, DC 20374–5065, telephone (202) 685–9203, or E. R. Nelson, Director, Real Estate Department, Southern Division, Naval Facilities Engineering Command, P.O. Box 190010, 2155 Eagle Drive, North Charleston, SC 29419–9010, telephone (843) 820–7494.

SUPPLEMENTARY INFORMATION: In 1995, NAS Key West, FL, was designated for realignment pursuant to the Defense Base Closure and Realignment Act of 1990 (DBCRA), Public Law 101–510, as amended. Pursuant to this designation, in April of 1996, approximately 168.14 acres of land and related facilities at this installation were declared surplus to the Federal Government and available for use by (a) non-Federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended. Approximately 35 acres of land improved with 10 buildings have been requested for transfer by other Federal agencies and was not included within the 168.14 acres. On July 3, 1997, a second determination was made to withdraw approximately 16 acres of improved and unimproved fee simple land at NAS Key West, FL, known as the Trumbo Point Annex Tank Farm. A third determination was made on December 20, 1999, to withdraw 3.54 acres of improved and unimproved fee simple land at NAS Key West, FL, known as the Seminole Battery. A fourth determination was made on May 2, 2003, to withdraw land and facilities previously reported as surplus that are now required by the Federal Government. This withdrawal is required to satisfy new military requirements and security concerns.

Notice of Surplus Property: Pursuant to paragraph (7)(B) of Section 2905(b) of the DBCRA, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information is regarding the withdrawal of previously reported surplus property at NAS Key West, FL, which was published in 61 FR 19614, May 2, 1996.

Withdrawn Property Description: The following is a description of land and facilities at NAS Key West, FL, that are withdrawn from surplus by the Federal government.

Land: Approximately 16.1 acres of improved and unimproved fee simple land at NAS Key West, FL, known as Truman Annex. This also includes the berthing wharf known as the Mole Pier.

Buildings: The following is a summary of the facilities located on the above-described land. General Warehouses: three structures of approximately 34,120 square feet.

Dated: May 15, 2003.

P.C. LeBlanc,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 03–12704 Filed 5–20–03; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Invention; Available for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. Navy Case No. 84,717, entitled ''Multiparameter System for Environmental Monitoring''.

ADDRESS: Requests for information about the invention cited should be directed to the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Catherine M. Cotell, Ph.D., Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone (202) 767–7230. Due to temporary U.S. Postal Service delays, please fax (202) 404–7920, E-Mail: *cotell@nrl.navy.mil* or use courier delivery to expedite response.

Authority: 35 U.S.C. 207, 37 CFR Part 404.

Dated: May 15, 2003.

P.C. LeBlanc,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 03–12705 Filed 5–20–03; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 21, 2003.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the

Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 15, 2003.

Joseph Schubart,

Acting Leader, Regulatory Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Extension.

Title: Ronald E. McNair Postbaccalaureate Achievement Program Annual Performance Report Form.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 156.

Burden Hours: 702.

Abstract: McNair Program grantees must submit the report annually. The report provides the Department of Education with information needed to evaluate a grantee's performance and compliance with program requirements and to award prior experience points in accordance with the program regulations. The data collected is also aggregated to provide national information on project participants and program outcomes.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2279. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov.* Requests may also be electronically mailed to the internet address OCIO_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–12696 Filed 5–20–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Science; Office of Biological and Environmental Research; Recommendations for Sequencing Targets in Support of the Science Missions of the Office of Biological and Environmental Research (BER)

AGENCY: Department of Energy (DOE).

ACTION: Notice of recommendations for sequencing targets.

SUMMARY: This **Federal Register** notice seeks the input and nominations of interested parties for candidate microbes, microbial consortia, and 100Mb-or-less-sized organisms for draft genomic sequencing in support of Office of Biological and Environmental Research (BER) programs, among them, the Climate Change Research Program, the Natural and Accelerated Bioremediation Research (NABIR) Program, the Environmental Management Science Program (EMSP), the Microbial Genome Program (MGP), and the GTL Program. Nominated candidates should be relevant to DOE mission needs, *e.g.*, organisms involved in environmental processes, including waste remediation, carbon management, and energy production. This announcement is not an offer of direct financial support for research on these organisms. Those nominations selected will result in the DNA sequence of selected organisms being determined at a draft level (6–8 × coverage) at the DOE Production Genomics Facility (PGF) at the Joint Genome Institute (JGI), (*http://www.jgi.doe.gov*). This announcement is designed to assist DOE in determining and prioritizing a list of microbes, microbial consortia, or modest-genome sized (not more than 100Mb) organisms (including eukaryotes) that address DOE mission needs. Following merit review, and subject to the availability of funding and programmatic relevance, draft sequencing will be carried out at the PGF.

DATES: To assure consideration, nominations in response to this notice should be received by 4:30 p.m. (EST), June 26, 2003, to be accepted for merit review. It is anticipated that review will be completed early in the fall of 2003 with draft sequencing at the DOE PGF to commence towards the end of 2003 or early in 2004, conditional upon the provision of high quality DNA.

ADDRESSES: Nominations responding to this notice should be sent to Dr. Daniel W. Drell, Office of Biological and Environmental Research, SC–72, Office of Science, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585–1290; email is acceptable and encouraged for submitting nominations using the following addresses: *joanne.corcoran@science.doe.gov* and *daniel.drell@science.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel W. Drell, SC–72, Office of Biological and Environmental Research, Office of Science, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585–1290, phone: (301) 903–4742, email: *daniel.drell@science.doe.gov*. The full text of this notice is available via the Internet using the following Web site address: *http://www.sc.doe.gov/ober/microbial.html*.

SUPPLEMENTARY INFORMATION: The DOE Office of Biological and Environmental Research supports fundamental research in a variety of missions (*http://www.sc.doe.gov/ober/ober_top.html*). Relevant BER programs may include the Climate Change Research Program, the Natural and Accelerated Bioremediation Research (NABIR) Program, the Environmental Management Science Program (EMSP), the Microbial Genome Program (MGP) and the GTL program. The Climate Change Research Program supports investigations of microbially-mediated fixation of atmospheric CO_2. The NABIR program supports research on microbial biotransformations and/or immobilization of metal and radionuclide wastes. The EMSP supports research into microbially-mediated biotransformations of DOE-relevant organic wastes such as chlorinated solvents. The MGP supports key DOE missions by providing and analyzing microbial DNA sequence information to further the understanding and application of microbiology relating to energy production, chemical and materials production, environmental carbon management, and environmental cleanup. The GTL Program builds on the successes of the DOE Human Genome Program (HGP) by seeking to understand biological function in DOE mission relevant microbes with emphases on identifying the multi-component protein complexes in cells, characterizing gene regulatory networks, probing the functional capabilities of the environmental microbial repertoire of genes, and beginning to model these processes computationally.

Over the last nine years, sequencing of a range of microorganisms that live in a wide diversity of environments has provided a considerable information base for scientific research related not only to DOE missions, but also to other federal agency missions and U.S.

industry. (*http://www.tigr.org/tdb/mdb/mdbcomplete.html*, *http://www.ornl.gov/microbialgenomes/organisms.html* and *http://www.jgi.doe.gov/JGI_microbial/html/*). Nonetheless, most of our current knowledge of microbiology still is derived from individual species that either cause disease or grow easily and readily as monocultures under laboratory conditions and are thus easy to study. The preponderance of species in the environment remains largely unknown to science. Many are thought to grow as part of interdependent consortia in which one species supplies a nutrient necessary for the growth of another. Virtually nothing is known of the organization, membership, or functioning of these consortia, especially those involved in environmental processes of DOE interest. Fungi and small multicellular eukaryotes play important roles in the environment as well.

Genomic analyses of sequenced microbes have suggested that processes such as lateral gene transfers at various times in the evolutionary history of some microbial lineages may have blurred the understanding of their phylogenetic relationships. For this notice, groups of microbes that may have exchanged (or may be exchanging) genetic information via lateral gene exchange or plasmid mediated exchanges can be proposed if the processes of genetic exchange result in functions relevant to DOE missions noted above.

Genomic analyses are badly needed of microbial consortia and species refractory to laboratory culture that play important roles in environments challenged with metals, radionuclides, chlorinated solvents, or are involved in carbon sequestration. The candidate(s) must mediate or catalyze metabolic events of energy or environmental importance. Priority will be given to studies on those microbes or microbial consortia that can bioremediate metals and radionuclides, degrade significant biopolymers such as celluloses and lignins, produce potentially useful energy-related materials (H_2, CH_4, ethanol, etc.), or fix or sequester CO_2.

For this notice, candidate organisms (either individual organisms, consortia of organisms, or eukaryotes with small genomes) comprised of archaea, bacteria, fungi, algae, and other eukaryotes with genome sizes not greater than 100Mbp can be proposed for draft sequencing. For a current list of microbes that have been and are being sequenced see *http://www.ornl.gov/microbialgenomes/organisms.html* and *http://www.ornl.gov/microbialgenomes/seq2003.html*.

Aims: This request for nominations of candidate sequencing targets has two broad foci:

(1) Single culturable organisms. These may be bacteria, archaea, fungi, microalgae or multicellular organisms with genomes not larger than 100Mb. The criteria that will be used to evaluate proposed candidates for draft sequencing will include:

(a) The candidate has significant relevance to the DOE missions noted above;

(b) The genome size and structure are known;

(c) The source of genomic DNA (*i.e.*, strain or isolate, and researcher) is identified, and a clonal sample (or samples with low and characterized polymorphism) are available;

(d) A brief description of post sequencing follow-up work (*e.g.*, a data use plan and how will data be annotated to enable rapid and open use) is included;

(e) The availability of a DNA/gene transfer system supporting genetic analyses is known;

(f) Biological novelty or uniqueness (*i.e.*, unusual genetically determined characteristics pertinent to DOE missions) is described;

(g) Place in the currently understood, 16s RNA based, ''Tree of Life'' is identified, *e.g.*, is the proposed candidate in a sparsely populated or more heavily populated section of the tree?

(h) A brief description of the user community is given;

(i) The potential impact on the scientific community is large;

(j) Explicit commitment to a data-release schedule, consistent with the guidelines given below is provided.

(2) Currently unculturable or hard-to-culture organisms and environmental consortia. The review criteria that will be used to evaluate proposed candidates for draft sequencing will include most of the criteria listed above for single culturable organisms (with less emphasis on genome size/structure, presence/absence of a genetic system, or position in the ''Tree of Life'' since it is recognized that few data on these attributes will be available), but in addition, the following considerations will be included:

(a) Some measure of the ''complexity'' of the target consortium being proposed, *e.g.*, approximate number of species, size(s) of genomes, and proportions of different members (it is understood that in most cases, only estimates of these parameters may be available) is discussed. When the environmental consortia are complex, approaches should be described to normalize the DNA libraries in order to reduce the amount of sequencing required and assure adequate sampling of the complexity of the consortia. Additionally, the proposer(s) should be prepared to work together with JGI scientists to optimize the yield from the sequencing effort required;

(b) Past attempts to cultivate consortium members are described, *e.g.*, have any members of this consortium been successfully cultured;

(c) Some spatial/temporal/hydrochemical/geochemical or other characterization of the environment is given, *e.g.*, the physicochemical parameters of the site from which the selected community is derived; a description of the site contaminants; the accessibility of the site for future sampling; the adequacy of site documentation;

(d) If proposed, technical approaches and technology development specific for defining and isolating members of a given consortium are described;

(e) Some indication of the biological function of the relationships, within consortium members, where available along with a discussion of the scientific and programmatic importance of understanding these relationships is given;

(f) Information where available is given about the phylogenetic position(s) of the members of the consortium and what is known about closely related organisms.

(g) Available informatics tools and annotation plan (*e.g.*, for annotating genes from a consortium analysis or grouping identified genes into a putative ''consortium phenotype'' within the chosen environment) are described;

(h) Explicit commitment to a data-release schedule, consistent with the guidelines given below is provided.

Scientific community standards regarding access to sequencing data are evolving. BER conforms to the general guidance contained within the Draft Rapid Data Release Policy (*http://www.genome.gov/page.cfm?pageID=10506537*) for ''community resource projects.'' The usual and customary practice for the JGI is to put all sequencing data up on its web site (*http://www.jgi.doe.gov/*) at frequent and periodic intervals. However, for the purposes of this notice, BER does not regard individual genome sequencing efforts involving less than 50Mb, or microbial community sequencing efforts, as requested herein, as ''community resource projects'' within the definition of the Draft Rapid Data Release policy. BER's position,

which is provisional and subject to evolution, is that no more than 6 months from the completion of 6 × coverage of the sequence for a single-genome project, the data will be released on the JGI web site or to a publicly accessible database with no use restrictions. For microbial community projects, the JGI will conduct normal QA/QC assessments on the sequence output (at approximately 2 × coverage), then discuss with the proposer(s) and with BER staff the extent to which sequencing will be continued to achieve a satisfactory genomic ''view'' of the selected microbial community. From the time of initiation of this discussion, not more than 6 months will be permitted to elapse before unconditional release of these data. BER is fully aware that some ambiguity remains in the precise initiation of this ''embargo'' period but stresses its intention and commitment to the rapid release, without any use restrictions, of this data into publicly accessible databases.

Upon selection of a nominated microbial sequencing target, BER expects that Principal Investigators will collaborate with the JGI by providing high quality, high MW genomic DNA for library construction as well as assisting in annotating the draft sequence data until a sufficiently complete annotation is achieved (understanding that this will be sensitive to hypothetical gene predictions and the usual uncertainties of annotation). Following data acquisition and annotation, DOE expects that those whose nominations have been sequenced will make good faith efforts to publish in the open scientific literature the results of their subsequent work, including both the genome sequences of the organisms sequenced under this notice as well as the annotation. (BER also expects the Principal Investigator of a selected effort to either deposit a culture of the microbe or consortium into a publicly accessible collection or repository, or make it available directly so others can have access). These parties are encouraged to create process- and cost-effective partnerships that will maximize data production and analysis, data dissemination, and progress towards understanding basic biological mechanisms that can further the aims of this effort. Additionally, it must be explicitly understood that DOE will provide an assembled and computationally annotated draft (roughly 6 ×; carried out in a paired-end sequencing approach) sequence of the microbe(s) selected, but that research using that sequence data should be funded from separate sources and/or separate solicitations. Finally, there is no commitment to finish a given drafted sequence, although this option may be considered at a later time.

Submission Information: Interested parties should submit a brief white paper to either of the foci given above, consisting of not more than 5 pages of narrative exclusive of attachments (which are discouraged) responding to each of the specific criteria set forth. Electronic submission (to *joanne.corcoran@science.doe.gov* and *daniel.drell@science.doe.gov*) is strongly encouraged. It is expected that the Principal Investigator will serve as the main point of contact for additional information on the nominated microbe. Nominations must contain a very short abstract or project summary and a cover page with the name of the applicant, mailing address, phone, fax, and email. The nomination should include 2-page curriculum vitae of the key investigators; letters of intent from collaborators (suggesting the size of the interested community) are permitted.

Nominations will be reviewed relative to the scope and research needs of the BER relevant programs cited above. A brief response to each nomination will be provided electronically following merit and programmatic reviews.

Other useful Web sites include:

DOE JGI Microbial Sequencing Priorities for FY2003—*http://www.ornl.gov/microbialgenomes/seq2003.html*

Microbial Genome Program Home Page—*http://www.sc.doe.gov/ober/microbial.html*

DOE Joint Genome Institute Microbial Web Page—*http://www.jgi.doe.gov/JGI_microbial/html/*

GenBank Home Page—*http://www.ncbi.nlm.nih.gov/*

Human Genome Home Page—*http://www.ornl.gov/hgmis*

DOE Genomes to Life—*http://DOEGenomestoLife.org*

DOE Natural and Accelerated Bioremediation Research (NABIR) Program—*http://www.lbl.gov/nabir*

Biotechnology Investigations—Ocean Margins Program—*http://www.sc.doe.gov/ober/GC/omp.html*

Issued in Washington, DC, May 14, 2003.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 03–12715 Filed 5–20–03; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OW–2003–0026, FRL–7501–4]

Agency Information Collection Activities: Proposed Collection; Comment Request; National Water Quality Inventory Reports (Clean Water Act Sections 305(b), 303(d), 314(a), and 106(e))

AGENCY: Environmental Protection Agency

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): National Water Quality Inventory Reports (Clean Water Act Sections 305(b), 303(d), 314(a), and 106(e)); EPA ICR Number 1560.07, OMB Control Number 2040–0071, expiring on July 31, 2003. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 21, 2003.

ADDRESSES: Follow the detailed instructions in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: John Wilson, Assessment and Watershed Protection Division, Office of Water, Mail Code: 4503T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–566–2385; fax number: 202–566–1331; e-mail address: *Wilson.John@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number OW–2003–0026, which is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public

docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 60 days of this notice, and according to the following detailed instructions: Submit your comments to EPA online using EDOCKET (our preferred method), by e-mail to *ow-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Water Docket, Mail Code 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov./edocket.*

Affected entities: Entities potentially affected by this action are States, Territories and Tribes with Clean Water Act (CWA) responsibilities.

Title: National Water Quality Inventory Reports (Clean Water Act Sections 305(b), 303(d), 314(a), and 106(e)). (OMB Control Number 2040–0071; EPA ICR Number 1560.07 expiring 07/31/2003.

Abstract: Section 303(d) of the Clean Water Act requires States to identify and rank waters which cannot meet water quality standards (WQS) following the implementation of technology-based controls. Under section 303(d), States are also required to establish total maximum daily loads (TMDLs) for listed waters not meeting standards as a result of pollutant discharges. In developing the section 303(d) lists, States are required to consider various sources of water quality related data and information, including the section 305(b) State water quality reports. The section 305(b) reports contain information on the extent of water quality degradation, the pollutants and sources affecting water quality, and State progress in controlling water pollution.

EPA's Assessment and Watershed Protection Division (AWPD) works with its Regional counterparts to review and approve or disapprove State section 303(d) lists and TMDLs from 56 respondents (the 50 States, the District of Columbia, and the five Territories). Section 303(d) specifically requires States to develop lists and TMDLs ''from time to time'' and EPA to review and approve or disapprove the lists and the TMDLs. EPA also collects State 305(b) reports from 59 respondents (the 50 States, the District of Columbia, five Territories, and 3 River Basin commissions).

This announcement includes the reapproval of current, ongoing activities related to 305(b) and 303(d) reporting and TMDL development for the period of August 1, 2003 through July 31, 2006.During the period covered by this ICR renewal, respondents will: complete their 2004 305(b) reports and 2004 303(d) lists; complete their 2006 305(b) reports and 2006 303(d) lists; transmit annual electronic updates of their 305(b) databases in 2003 through 2006; and continue to develop TMDLs according to their established schedules. EPA will prepare two biennial Reports to Congress: one in 2003 and one in 2005, and EPA will review TMDL submissions from respondents.

The respondent community for 305(b) reporting consists of 50 States, the District of Columbia, 5 Territories (Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands), and 3 River Basin Commissions. The Ohio River Valley Sanitation Commission, the Delaware River Basin Commission, and the Interstate Sanitation Commission have jurisdiction over basins that lie in multiple States. Indian Tribes are exempt from the 305(b) reporting requirement, but some Tribes choose to participate as a way of presenting assessments and water quality issues to the public and Congress. One Tribe or Tribal Group prepared 305(b) reports in 1996 and 1997. However, since Tribal 305(b) reporting is a voluntary effort, it is not included in the burden estimates for this ICR.

The respondent community for 303(d) activities consists of 50 States, the District of Columbia, and 5 Territories (Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands). Although Indian Tribes are not exempt from 303(d) requirements, there is not a process currently in place to designate them for this purpose. Further, very few Tribes have established water quality standards, and EPA is currently in the process of preparing standards where they are needed. Therefore, we assume that there would be no burden to Indian Tribes over the period covered by this ICR for 303(d) activities.

The burden of specific activities that States undertake as part of their 305(b) and 303(d) programs are derived from an ongoing project among EPA, States and other interested stakeholders to develop a tool for estimating the States' resource needs for State water quality management programs. This project has developed the State Water Quality Management Workload Model (SWQMWM), which estimates and sums the workload involved in more than one hundred activities or tasks comprising a State water quality management program. Over twenty States have contributed information about their activities that became the basis for the model. According to the SWQMWM, the States will carry out the following activities or tasks to meet the 305(b) and 303(d) reporting requirements: watershed characterization; modeling and analysis; development of a TMDL document for public review; public outreach; formal public participation; tracking; planning; legal support; etc. In general, respondents have conducted each of these reporting and record keeping activities for past 305(b) and 303(d) reporting cycles and thus have staff and procedures in place to continue their 305(b) and 303(d) reporting programs. The burden associated with these tasks is estimated in this ICR to include the total number of TMDLs that may be submitted during the period covered by this ICR.

The biennial frequency of the collection is mandated by section 305(b)(1) of the CWA. Section 305(b) originally required respondents to submit water quality reports on an annual basis. In 1977, the annual requirement was amended to a biennial requirement in the CWA. EPA has determined that abbreviated reporting for hard-copy 305(b) reports, combined with annual electronic reporting using respondent databases, will meet the CWA reporting requirements while reducing burden to respondents. The biennial period with annual electronic reporting ensures that information needed for analysis and water program decisions is reasonably current, yet abbreviated reporting requirements provides respondents with sufficient time to prepare the reports.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

Burden Statement: Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

For current 305(b) and 303(d) reporting activities, the primary source we use in estimating burden for tasks to be performed by States is the State Water Quality Management Workload Model (SWQMWM), which estimates and sums the workload involved in more than one hundred activities or tasks comprising a State water quality management program.

The average annual burden per respondent for current 305(b) (59 respondents) and 303(d)(56 respondents) reporting activities is 6,491 hours and the total annual burden to all respondents is 372,403 hours. The table below displays a summary of the burden estimates.

AVERAGE OF ANNUAL BURDEN FOR 305(B) AND 303(D) REPORTING ACTIVITIES

Activity	Number of respondents	Total annual burden
1. Review regs and guidance for 305(b) & 303(d)	59	7,434
2. Plan and coordinate data acquisition and compile and screen data for assessments	59	65,490
3. Development and submission of complete 305(b) report and response to EPA comments	59	83,013
4. Develop, review and update 303(d) listing and de-listing methodology	56	46,536
5. Prepare 303(d) list (includes identifying waters, setting priorities, and schedules)	56	123,648
6. Required public outreach for 303(d) list	56	14,840
7. Submission of 303(d) list to EPA and response to EPA comments	56	12,208
8. Prepare annual electronic updates	59	19,234
9. Implement enhanced benefit cost of WQS	59	40,710
Total		413,113

The additional burden for States to assess the costs and benefits of achieving water quality standards depends on the level of detail and sophistication that the States choose to provide as well as factors such as the number of impaired waters in the State, the State's diversity of water resources, and the intensity of use of those resources. The estimate of the burden associated with the enhanced benefit cost analysis, resulting in an average increase in State burden of 690 hours annually.

We use a separate analysis to estimate the burden associated with current TMDL development. Based on estimates of the number of TMDLs per year (4,000), the total average current burden associated with developing TMDLs under the current 303(d) program is estimated to be 59,409 hours per respondent, and the total annual burden for all 56 respondents is estimated to be 3,326,904 hours.

To estimate respondent costs, we applied an average fully loaded cost per hour to the burden estimates. This fully loaded hourly labor rate represents the total cost for obtaining an hour's worth of work, and includes: direct salary paid, paid or accrued vacation, paid or accrued sick leave, cost of other fringe benefits (*e.g.*, health, pension, etc.), general training, indirect expenses such as professional support (*e.g.*, clerical, accounting, supervisory, etc.), office space, utilities, telephone service, equipment (*e.g.*, fax machines, basic computing needs such as hardware and software, etc.), etc. The average annual cost to each respondent for current 305(b) and 303(d) reporting (including the enhanced benefit cost activities) is estimated to be $298,227. The total annual costs imposed on all 59 respondents is estimated to be $17,156,583. Average annual respondent costs for current TMDL development is estimated at $2,467,256 per respondent and $138,166,323 for all 56 respondents.

Agency burden estimates are based on EPA's prior experience in developing 305(b) and 303(d) guidance, preparing the Report to Congress, providing technical support to respondents, and reviewing and approving/disapproving 303(d) lists and TMDL submissions. The hourly cost estimates were calculated for a technical federal position, Grade 10 Step 7 effective as of January 2003 ($22.49 per hour). The total costs are based upon an overhead rate of 110 percent. The average annual Agency burden for 305(b) and 303(d) reporting activities is estimated at 9,089 hours at a cost of $456,774. The cost of the Agency's additional burden to develop new guidance required by States to improve their estimates of the benefits and costs of achieving WQS is estimated at approximately $300,000 which would be incurred during 2004 and 2005. Over the 3-year period of this ICR, the annual cost would be $100,000 which translates into a burden of 2,117 hours annually. The annual average Agency burden and costs for TMDL review is 11,200 hours and $528,976.

Respondent Total

Annual Burden: 3,740,017 hours per year.

Annual Costs: $155,322,906 per year.

Agency Total

Annual Burden: 22,406 hours per year.

Annual Costs: $1,085,750 per year.

Dated: May 15, 2003.

Diane C. Regas,

Director, Office of Wetlands, Oceans and Watersheds.

[FR Doc. 03–12759 Filed 5–20–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OAR–2003–0070, FRL–7501–7]

Agency Information Collection Activities: Proposed Collection; Comment Request; The SunWise School Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): The SunWise School Program, Global Programs Division, EPA ICR No. 1904.01, expiration date: 11/30/03. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the continuing information collection as described below.

DATES: Comments must be submitted on or before July 21, 2003.

ADDRESSES: Follow the detailed instructions in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Kristin Kenausis, Office of Atmospheric Programs, Global Programs Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW. (6205J), Washington, DC 20460, (202) 564–2289, *kenausis.kristin@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number OAR–2003–0070, which is available for public viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for Air and Radiation Docket is (202) 566–1744. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice, and according to the following detailed instructions: Submit your comments to EPA online using EDOCKET (our preferred method), by email to *a-and-r-Docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket, Mailcode 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *www.epa.gov./edocket.*

Affected entities: Entities potentially affected by this action are elementary and middle school students, parents, and teachers (SIC Div. I: Group 8211).

Title: SunWise School Program; (OMB Control Number 2060–0439; EPA ICR No. 1904.01, expiring on 11/30/03).

Abstract: The goal of the SunWise School Program is to teach children and their care givers how to protect themselves from overexposure to the sun. The SunWise School Program recognizes the challenge of measuring the progress and evaluating the effectiveness of an environmental and public health education program where the ultimate goal is to reduce risk and improve public health. Therefore, the continual and careful evaluation of program effectiveness through a variety of means, including data from pre- and post-intervention surveys, tracking and monitoring of classroom activities and school policies, and advisory board meetings, is necessary to monitor progress and refine the program. Surveys to be developed and administered include: (1) Student survey to identify current sun safety knowledge and behaviors among students; (2) Parent survey to compare findings with those of their children as well as to draw comparisons with the benchmarks established in other national surveys; and (3) Teacher questionnaire for measuring their receptivity to the educational component of the Program. The data will be analyzed and results will indicate the Program's effect on participants' sun-protection attitudes and behaviors. Responses to the collection of information are voluntary. All responses to the collection of information remain anonymous and confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average .5 hours per response.

Number to be surveyed annually (A)	Total Hours Burden (B)	Rate per hour ($) (C)	Total Cost (D=B*C) (D)
3,000 Students	3,000		
1,000 Teachers	500	$36.88	$18,440.00

Number to be surveyed annually (A)	Total Hours Burden (B)	Rate per hour ($) (C)	Total Cost (D=B*C) (D)
1,000 Parents	250	$20.29	$5,072.50
Total (Annual)	3,750		$23,512.50
ICR Total (3 years)	11,250		$70,537.50

The contractor (Boston University Medical Center) will assist EPA in data collection and analysis. EPA has contracted for a total of 400 professional hours. At an average rate of $100 per hour, the total cost for the contractor is $40,000 annually. Agency burden to manage this contract is estimated at 4 hours/month or 48 hours annually. The cost of this labor will be calculated based on a GS 12 Step 5 pay level ($44.75/hour using the salary associated with this grade and step, multiplied by a benefits factor of 1.6[16]). Total hours (48) multiplied by $44.75 per hour amounts to a total agency labor cost of $2,196/per annum.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: May 6, 2003.

Drusilla Hufford,

Director, Global Programs Division.

[FR Doc. 03–12763 Filed 5–20–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2003–0016; FRL–7304–9]

Endocrine Disruptor Methods Validation Subcommittee under the National Advisory Council for Environmental Policy and Technology; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: There will be a meeting of the Endocrine Disruptor Methods Validation Subcommittee (EDMVS), a Subcommittee under the National Advisory Council for Environmental Policy and Technology (NACEPT), on June 5–6, 2003. This meeting, as with all EDMVS meetings, is open to the public. Seating is on a first-come basis.

DATES: The meeting will be held on Thursday, June 5, 2003, from 9 a.m. to 5 p.m., and Friday, June 6, 2003, from 8:30 a.m. to 3 p.m. eastern daylight time. The telephone number at RESOLVE is (202) 944–2300.

Individuals requiring special accommodations at the meeting, including wheelchair access, should contact Jane Smith at the address listed under **FOR FURTHER INFORMATION CONTACT** at least 5 business days prior to the meeting, so appropriate arrangements can be made.

ADDRESSES: The meeting will be held at RESOLVE, 1255 23rd St., NW., Suite 275, Washington, DC.

Requests and comments may be submitted electronically, by telephone, fax, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Jane Smith, Designated Federal Official for the EDMVS, Exposure Assessment Coordination and Policy Division (7203M), Office of Science Coordination and Policy, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8476; fax number: (202) 564–8483; or e-mail address: *smith.jane-scott@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest if you produce, manufacture, use, consume, work with or import pesticide chemicals and other substances. To determine whether you or your business may have an interest in this notice you should carefully examine section 408(p) of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996 (Public Law 104–170), 21 U.S.C. 346a(p) and amendments to the Safe Drinking Water Act (SDWA) (Public Law 104–182), 42 U.S.C. 300j–17. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding this action, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPPT–2003–0016. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other related information. 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 are available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0282.

2. *Electronic access*. A meeting agenda, a list of EDMVS members and information from previous meetings are available electronically, from the EPA Internet Home Page at *http://www.epa.gov/scipoly/oscpendo/edmvs.htm*. You may also go directly to the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic 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. Once in the system, select ''search,'' then key in docket ID number OPPT–2003–0016. 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.I.

C. How Can I Request to Participate in the Meeting?

You may submit a request to participate in the meeting through electronic mail, telephone, fax, or in person. EPA would normally accept requests by mail, but in this time of delays in delivery of government mail due to health and security concerns, EPA cannot assure your request would arrive in a timely manner. Do not submit any information in your request that is considered CBI. Your request must be received by EPA on or before May 27, 2003. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPT–2003–0016 in the subject line on the first page of your request.

1. *Electronically*. You may submit your request to participate electronically. Do not submit any information electronically that you consider to be CBI. Use WordPerfect 6.1/8.0 or ASCII file format and avoid the use of special characters and any form of encryption.

i. *EPA Docket*. You may use EPA's electronic public docket to submit a request to participate in this meeting. Go to EPA Dockets at *http://epa.gov/edocket*, and follow the online instructions for submitting materials. Once in the system, select ''search,'' and then key in docket ID number OPPT–2003–0016.

ii. *E-mail*. Request to participate may be sent by e-mail to the person listed in **FOR FURTHER INFORMATION CONTACT**, or directly to the docket at *oppt.ncic@epa.gov*, Attention: Docket ID Number OPPT–2003–0016.

2. *Telephone or fax*. Send your request to participate to the individual identified in **FOR FURTHER INFORMATION CONTACT**.

D. How and to Whom Do I Submit Comments?

In accordance with the Federal Advisory Committee Act (FACA), the public is encouraged to submit written comments on the topic of this meeting. The EDMVS will have a brief period available during the meeting for public comment. It is the policy of the EDMVS to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EDMVS expects that public statements presented at its meeting will be on the meeting topic and not be repetitive of previously submitted oral or written statements.

You may submit comments electronically or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.E. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPPT–2003–0016. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *oppt.ncic@epa.gov*, Attention: Docket ID Number OPPT–2003–0016. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM by courier or package service, such as Federal Express to the address identified in Unit I.D.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By hand delivery or courier*. Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number OPPT–2003–0016. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

E. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background

In 1996, through enactment of the Food Quality Protection Act, which

amended the Federal Food, Drug, and Cosmetic Act, Congress directed EPA to develop a screening program, using appropriate validated test systems and other scientifically relevant information, to determine whether certain substances may have hormonal effects in humans. In 1996, EPA chartered a scientific advisory committee, the Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), under the authority of the Federal Advisory Committee Act (FACA) to advise it on establishing a program to carry out Congress' directive. EDSTAC recommended a multi-step approach including a series of screens (Tier I screens) and tests (Tier II tests) for determining whether a chemical substance may have an effect in humans similar to that produced by naturally occurring hormones. EPA adopted almost all of EDSTAC's recommendations in the program that it developed, the Endocrine Disruptor Screening Program (EDSP), to carry out Congress' directive.

EDSTAC also recognized that there currently are no validated test systems for determining whether a chemical may have an effect in humans that is similar to an effect produced by naturally occurring hormones. Consequently, EPA is in the process of developing and validating the screens and tests that EDSTAC recommended for inclusion in the EDSP. In carrying out this validation exercise, EPA is working closely with, and adhering to the principles of the Interagency Coordinating Committee for the Validation of Alternate Methods (ICCVAM). EPA also is working closely with the Organization for Economic Cooperation and Development's (OECD) Endocrine Testing and Assessment Task Force to validate and harmonize endocrine screening tests of international interest.

Finally, to ensure that EPA has the best and most up-to-date advice available regarding the validation of the screens and tests in the EDSP, EPA formed the Endocrine Disruptor Methods Validation Subcommittee (EDMVS) of the National Advisory Council for Environmental Policy and Technology (NACEPT). EDMVS provides independent advice and counsel to the Agency through NACEPT, on scientific and technical issues related to validation of the EDSP Tier I screens and Tier II tests, including advice on methods for reducing animal use, refining procedures involving animals to make them less stressful, and replacing animals where scientifically appropriate.

The EDMVS has held six meetings since its establishment in September 2001.

The objectives of the first meeting, which was held in October 2001, (docket control number OPPT–42212D) were for EPA to provide:

1. An overview of EPA's Endocrine Disruptor Program.
2. Background information on test protocol validation and approaches.
3. For the EDMVS to develop a clear understanding of their scope, purpose, and operating procedures.
4. The EDMVS and the EDSP to determine the next steps.

The objectives of the December 2001 meeting (docket control number OPPT–42212E) were for the EDMVS to provide input and advice on:

1. EDMVS's mission statement and work plan.
2. The *in utero* through lactation assay detailed review paper.
3. The pubertal assay study design for the multi-dose and chemical array protocols.
4. The mammalian one-generation study design.

The objectives of the March 2002 meeting (docket control number 42212F) were for the EDMVS to provide input and advice on:

1. EPA's implementation process and practical aspects of validation.
2. The *in utero* through lactation assay protocol.
3. The fish reproduction assay detailed review paper.
4. Special studies, the fathead minnow assays, vitellogenin assay, and avian dosing protocol.
5. The steroidogenesis detailed review paper.
6. The aromatase detailed review paper.
7. A proposed standard suite of chemicals for testing in the Tier I screening assays.
8. The current efforts related to evaluating the relevance of animal data to human health.
9. EPA's approach to addressing low dose issues.

The objective of the June 2002 teleconference meeting (docket ID number OPPT–2002–0020) was for the EDMVS to provide input and advice on the steroidogenesis detailed review paper.

The objectives of the July 2002 meeting (docket ID number OPPT–2002–0029) were:

1. To review the screening criteria, recommended by EDSTAC and adopted by EDSP for screens.
2. To receive an update of the NICEATM estrogen and androgen receptor binding efforts.
3. To discuss and provide advice on general dose setting issues; and to provide comments and advice on:

- A pubertal--special study--restricted feeding.
- A mammalian 2-generation draft PTU special study.
- An amphibian metamorphosis detailed review paper.
- An invertebrate detailed review paper.

The objective of the December 2002 teleconference meeting (docket ID number OPPT–2002–0059) was for the EDMVS to provide input and advice on the Tier II fish life cycle assay detailed review paper.

III. Meeting Objectives for the June 5–6, 2003 Meeting

The objectives of the June 5–6, 2003 (docket ID number OPPT–2003–0016) are for EDMVS to provide input and advice on:

1. The Tier II Mammalian 2-generation special study on the one-generation extension results.
2. The Tier I steroidogenesis (sliced testes) study results.
3. To provide the status of the Tier I study results of the aromatase placental tissue study.

A list of the EDMVS members and meeting materials are available on our web site (*http://www.epa.gov/scipoly/oscpendo/edmvs.htm*) and in the public docket.

List of Subjects

Environmental protection, Endocrine system, Endocrine disruptors, Endocrine disruptor screening program.

Dated: May 9, 2003.

Joseph Merenda,

Director, Office of Science Coordination and Policy, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 03–12484 Filed 5–20–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0142; FRL–7308–4]

Fenhexamid; Notice of Filing Pesticide Petitions to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of a certain

pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2003–0142, must be received on or before June 20, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. 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–2003–0142. 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 EPA's Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in EPA's Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. 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. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties

and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0142. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID number OPP–2003–0142. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID number OPP–2003–0142.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID number OPP–2003–0142. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on the petitions.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 9, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petitions

The petitioner's summary of the pesticide petitions is printed below as required by FFDCA section 408(d)(3). The summary of the petitions was prepared by the Arvesta Corporation, 100 First Street, Suite 1700, San Francisco, CA 94105 and represents the view of Arvesta Corporation. The petitions summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Interregional Research Project Number 4

PP 2E6463, 2E6496, 3E6532, and 3E6541

EPA has received pesticide petitions 2E6463, 2E6496, 3E6532, and 3E6541, from the Interregional Research Project Number 4 (IR–4), Center for Minor Crop Pest Management, Rutgers, The State University of New Jersey, 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR 180.553 by establishing tolerances for residues of fenhexamid, *N*-(2,3-dichloro-4-hydroxyphenyl)-1-methyl-cyclohexane carboxamide, in or on raw agricultural commodities as follows:

1. PP 2E6463 proposes a tolerance in or on kiwifruit (post harvest) at 15.0 parts per million (ppm).
2. PP 2E6496 proposes to establish tolerances in or on cucumber at 2.0 ppm, and vegetable, fruiting, group 8 at 2.0 ppm.
3. PP 3E6532 proposes a tolerance in or on leafy greens subgroup 4A, except spinach, at 30.0 ppm.
4. PP 3E6541 proposes a tolerance in or on fruit, stone, group 12 (post harvest) at 10 ppm.

This action also proposes to further amend 40 CFR 180.553 by deleting the

entry for stone fruit, except plum (fresh prune) tolerance at 6.0 ppm as a higher tolerance of 10 ppm for fruit, stone, group 12 (post harvest) is proposed herein.

A. Residue Chemistry

1. *Plant metabolism*. The qualitative nature of fenhexamid residues in plants is adequately understood.

2. *Analytical method*. An adequate method for purposes of enforcement of the proposed fenhexamid tolerances in plant commodities is available.

3. *Magnitude of residues*. The magnitude of residues for fenhexamid on the proposed commodities is adequately understood.

B. Toxicological Profile

In the **Federal Register** of February 8, 2002 (67 FR 6028) (FRL–6821–2), EPA published the Notice of Filing proposing the establishment of tolerances for residues of fenhexamid on a number of raw agricultural commodities, including caneberry, *et. al*. That publication summarizes in detail the current state of knowledge regarding the toxicological profile of fenhexamid including aggregate exposure assessment and determination of safety. Interested readers are referred to that document for specific information under Unit II.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Dietary exposure to fenhexamid is limited to the established tolerances for residues of fenhexamid on grapes (at 4.0 ppm), raisins (at 6.0 ppm), strawberries (at 3.0 ppm), almond nutmeat (at 0.02 ppm), almond hulls (at 2.0 ppm), stonefruit (pre-harvest, at 5.0 ppm), pear (at 15 ppm), bushberries (at 5.0 ppm), caneberries (at 20 ppm), and pistachios (at 0.02 ppm); the proposed tolerances in the current submission which are as follows: Cucumber (at 2.0 ppm), crop group 8 (fruiting vegetables, at 2.0 ppm), kiwi (post-harvest, at 15.0 ppm), lettuce (at 30.0 ppm), and crop group 12 (stonefruit, pre-harvest and post-harvest, at 10.0 ppm).

ii. *Drinking water*. Review of the environmental fate data indicates that fenhexamid is relatively immobile and rapidly degrades in the soil and water. Fenhexamid dissipates in the environment via several processes. Therefore, Arvesta Corporation believes that a significant contribution to aggregate risk from fenhexamid in drinking water is unlikely.

2. *Non-dietary exposure*. There is no significant potential for non-occupational exposure to the general public. The proposed uses are limited to agricultural and horticultural use.

D. Cumulative Effects

Consideration of a common mechanism of toxicity is not appropriate at this time since it has a unique mode of action. Moreover, there is no significant toxicity observed for fenhexamid. Even at toxicology limit doses, only minimal toxicity is observed for fenhexamid. Therefore, Arvesta Corporation concludes that only the potential risks of fenhexamid are considered in the exposure assessment.

E. Safety Determination

1. *U.S. population*. Considering that the percent of the chronic population adjusted dose (cPAD) utilized by all current uses (almonds, bushberries, caneberries, grapes, pear, pistachios, raisins, pre-harvest stonefruit, and strawberry) is estimated to be 7% in the **Federal Register** of April 18, 2002 (67 FR 19114) (FRL–6829–9); considering also the proposed tolerances, proportion of the crops treated and their importance in the diet, the percent of the cPAD utilized by the proposed uses is estimated to 14%. Therefore, Arvesta Corporation believes that the estimates of dietary exposure indicate adequate safety margins for the overall U.S. population.

2. *Infants and children*. Considering that the percent of the cPAD utilized by all current uses (almonds, bushberries, caneberries, grapes, pear, pistachios, raisins, pre-harvest stonefruit, and strawberry) is estimated to be 66% (infants) and 17% (children) (67 FR 19114, April 18, 2002); considering also the proposed tolerances, proportion of the crops treated and their importance in the diet, the percent of the cPAD utilized by the proposed uses is estimated to 11% (infants) and 13% (children). Therefore, the estimates of dietary exposure indicate adequate safety margins for children. In assessing the potential for additional sensitivity of infants and children to residues of fenhexamid, the available developmental toxicity and reproductive toxicity studies and the potential for endocrine modulation by fenhexamid were considered. Developmental toxicity studies in two species indicate that fenhexamid does not impose additional risks to developing fetuses and is not a teratogen. The 2–generation reproduction study in rats demonstrated that there were no adverse effects on reproductive performance, fertility, fecundity, pup survival, or pup development at non-maternally toxic levels. Maternal and developmental no observed adverse effect levels (NOAELs) and lowest observed adverse effect levels (LOAELs) were comparable, indicating no increase in susceptibility of developing organisms. No evidence of endocrine effects was noted in any study. It is therefore concluded by Arvesta Corporation that fenhexamid poses no additional risk for infants and children and no additional uncertainty factor is warranted.

F. International Tolerances

International tomato tolerances are in effect in France, Germany, Greece, Italy, Slovenia, Spain, Turkey (1 ppm), and other European countries (2 ppm). Kiwi tolerances are as follows: Greece, Italy, and Slovenia (10 ppm). Stonefruit tolerances already exist in the U.S. for pre-harvest applications as well as in Canada (6 ppm), Austria (cherry, 5 ppm; plum, 2 ppm); Belgium (cherry, 5 ppm); Germany and Slovenia (cherry, 5 ppm; peach and plum, 2 ppm), Italy (cherry, 5 ppm; apricot, peach, and plum 2 ppm); Japan (peach, 1 ppm), Switzerland (cherry, 2 ppm) and the United Kingdom (plum, 1 ppm), and other European countries (peach and plum, 1 ppm; cherry, 5 ppm).

[FR Doc. 03–12485 Filed 5–20–03; 8:45 am]

BILLING CODE 6560–60–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0167; FRL–7306–9]

Carbofuran; Receipt of Applications for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Texas Department of Agriculture; the Oklahoma Department of Agriculture, Food, and Forestry; and the Louisiana Department of Agriculture and Forestry to use the pesticide flowable carbofuran (Furadan 4F Insecticide/Nematicide) (EPA Reg. No. 279–2876) to treat up to 1.8 million acres of cotton in Texas; 100,000 acres of cotton in Oklahoma; and 500,000 acres of cotton in Louisiana to control cotton aphid. The Applicants propose the use of a chemical which has been the subject of a Special Review within EPA's Office of Pesticide Programs, and is intended for a use that could pose a risk similar to the risk posed by uses evaluated under the Special Review. The granular formulation of carbofuran was the subject of a Special Review between the years of 1986–1991, which resulted in a negotiated settlement whereby most of

the registered uses of granular carbofuran were phased out. While the flowable formulation of carbofuran is not the subject of a Special Review, EPA believes that the proposed use of flowable carbofuran on cotton could pose a risk similar to the risk assessed by EPA under the Special Review of granular carbofuran. EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Written comments, identified by docket ID number OPP–2003–0167, must be received on or before June 5, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Stephen A. Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9362; fax number: (703) 308–6920; e-mail address: *schaible.stephen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a Federal or State government agency (NAICS 9241) involved in administration of environmental quality programs.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. 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–2003–0167. 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 submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. 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. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

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C. How and to Whom Do I Submit Comments?

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1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0167. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2003–0167. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2003–0167.

3. By hand delivery or courier. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2003–0167. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

What Action is the Agency Taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the Administrator determines that emergency conditions exist which require the exemption. The Louisiana Department of Agriculture and Forestry; the Oklahoma Department of Agriculture, Food, and Forestry; and the Texas Department of Agriculture have requested the Administrator to issue specific exemptions for the use of carbofuran on cotton to control cotton aphids. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the Applicants assert that the States of Louisiana, Oklahoma, and Texas are likely to experience non-routine infestations of aphids during the 2003 cotton growing season. The Applicants further claim that resistance to currently registered alternatives may occur and that without a specific exemption from registration under FIFRA for the use of flowable carbofuran on cotton to control cotton aphids, cotton growers in these states will suffer significant economic losses.

The Applicants propose to make no more than two applications of flowable carbofuran on cotton at the rate of 0.25 lb. active ingredient (a.i.) (8 fluid ounces) in a minimum of 2 gallons of finished spray per acre by air, or 10 gallons of finished spray per acre by ground application. The total maximum proposed use during the 2003 growing season (April 1, 2003 - October 31, 2003 in Texas, July 1, 2003 - October 15, 2003 in Oklahoma, and June 1, 2003 - September 30, 2003 in Louisiana) would be 0.5 lb. a.i. (16 fl. oz.) per acre. The Applicants propose that the maximum acreage which could be treated under the requested exemptions would be 1.8 million acres in Texas; 100,000 acres in Oklahoma; and 500,000 acres in Louisiana. If all of these acres were treated at the maximum proposed rates and for the maximum allowed number of times, 900,000 lb. a.i. (225,000 gallons of Furadan 4F Insecticide/Nematicide) would be used in Texas, 50,000 lb. a.i. would be used in Oklahoma, and 250,000 lb. a.i. would be used in Louisiana.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 of FIFRA require publication of a notice of receipt of an application for a specific exemption proposing use of a chemical (i.e., an active ingredient) which has been the subject of a Special Review within EPA's Office of Pesticide Programs and is intended for a use that could pose a risk similar to the risk posed by uses evaluated under the Special Review. The granular formulation of carbofuran was the subject of a Special Review between the years of 1986–1991, which resulted in a negotiated settlement whereby most of the registered uses of granular carbofuran were phased out. While the flowable formulation of carbofuran is

not the subject of a Special Review, EPA believes that the proposed use of flowable carbofuran on cotton could pose a risk similar to the risk assessed by EPA under the Special Review of granular carbofuran. The notice provides an opportunity for public comment on the application.

The Agency, will review and consider all comments received during the comment period in determining whether to issue the specific exemptions requested by the Louisiana Department of Agriculture and Forestry; the Oklahoma Department of Agriculture, Food, and Forestry; and the Texas Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 8, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 03–12483 Filed 5–20–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0143; FRL–7394–1]

Issuance of an Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted an experimental use permit (EUP) to HBB Partnership. An EUP permits use of a pesticide for experimental or research purposes only in accordance with the limitations in the permit.

FOR FURTHER INFORMATION CONTACT: Denise Greenway, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8263; e-mail address: *greenway.denise@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, 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 information in this action, 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–2003–0143. 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 submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. EUP

EPA has issued the following EUP:

75108–EUP–1. Issuance. HBB Partnership, 5151 N. Palm Ave., Suite 820, Fresno, CA 93704–2221. This EUP allows the use of 1.46 pounds of the California red scale pheromone, (3S, 6R)-3-methyl-6-isopropenyl-9-decen-1-yl acetate and (3S, 6S)-3-methyl-6-isopropenyl-9-decen-1-yl acetate, on 4,050 acres of citrus, as a mating disruptor, to evaluate the control of California red scale. The program is authorized only in the States of Arizona, California, Florida, Hawaii, and Texas. The EUP is effective from April 3, 2003 to September 30, 2003. The experimental use of this new pheromone active ingredient, delivered by dispenser, is covered by the tolerance exemptions established at 40 CFR 180.1122 and 180.1124.

Authority: 7 U.S.C. 136c.

List of Subjects

Environmental protection, Experimental use permits.

Dated: May 7, 2003.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 03–12481 Filed 5–20–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7501–8]

A Review of the Reference Dose and Reference Concentration Processes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of a final report.

SUMMARY: The U.S. Environmental Protection Agency's (EPA) Risk Assessment Forum (RAF) announces the availability of a final report, A Review of the Reference Dose and Reference Concentration Processes (EPA/630/P–02/002F, December 2002).

ADDRESSES: The document is available electronically through the Risk Assessment Forum's Web site *(http://cfpub.epa.gov/ncea/raf/recordisplay.cfm?deid=55365).* A limited number of paper copies will be available from the EPA's National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242; telephone: 1–800–490–9198 or 513–489–8190; facsimile: 513–489–8695. Please provide your name and mailing address and the title and EPA number of the requested publication.

FOR FURTHER INFORMATION CONTACT: Dr. Carole Kimmel, National Center for Environmental Assessment, (8623D), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 202–564–3307; facsimile: 202–565–0078; email: *kimmel.carole@epa.gov*.

SUPPLEMENTARY INFORMATION: This report, entitled, ''A Review of the Reference Dose and Reference Concentration Processes,'' summarizes the review and deliberations of the Risk

Assessment Forum's RfD/RfC Technical Panel and its recommendations for improvements in the process of deriving reference values, including setting less than lifetime as well as chronic reference values. It discusses revisions to the overall framework for the derivation of reference values that broaden and expand the information considered in setting reference values. The document is a review, not guidance, and it evaluates the current state-of-the-art for hazard characterization with a focus on protection of potentially sensitive subpopulations. The report make a number of recommendations that should be considered in the implementation of changes in the current process and/or development of needed guidance. The Technical Panel views the RfD/RfC process as one that should be continually evolving as new information becomes available and new scientific and risk assessment approaches are developed. This does not mean that current RfDs or RfCs are invalid, but these new scientific issues should be included in the process of re-evaluating current reference values. As a follow-up to the recommendation for deriving less than lifetime reference values, the report includes a review of current testing guideline protocols to determine what data are collected that can be used in setting these reference values. The Technical Panel has provided specific recommendations for deriving reference values and the development of guidance in some cases and more general conclusions and recommendations in others. Case studies are included to illustrate the recommendations of the Technical Panel.

Dated: May 15, 2003.

Peter W. Preuss,

Director, National Center for Environmental Assessment.

[FR Doc. 03–12762 Filed 5–20–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7501–3]

Southern Solvents Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into an Administrative Order on Consent pursuant to section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended regarding the Southern Solvents Superfund Site located in Tampa, Hillsborough County, Florida. This Agreement is made and entered into by EPA and by Southern Solvents, Inc., (''Settling Parties''). EPA will consider public comments on the proposed settlement until June 20, 2003.

EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement in appropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. EPA, Region 4, Sam Nunn Atlanta Federal Center, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303. (404) 562–8887.

Written comments may be submitted to Ms. Batchelor within thirty (30) calendar days of the date of this publication.

Dated: April 28, 2003.

Archie Lee,

Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 03–12767 Filed 5–20–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7501–6]

Proposed Reissuance of a General NPDES Permit for Facilities Related to Oil and Gas Extraction on the North Slope of the Brooks Range, AK (Permit Number AKG–33–0000 Formerly AKG–31–0000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed reissuance of a general permit.

SUMMARY: On April 10, 2002, the general permit regulating activities related to the extraction of oil and gas on the North Slope of the Brooks Range in the state of Alaska expired. This proposed reissuance of a general permit is intended to regulate activities related to the extraction of oil and gas on the North Slope of the Brooks Range in the state of Alaska. The proposed general permit would cover the same discharges as the previous general permit: domestic wastewater discharges, gravel pit dewatering, construction dewatering, and hydrostatic test water. The proposed reissuance also includes two new outfall designations for the discharge of storm water from industrial activities and discharges of treated effluent from mobile spill response units. When issued, the proposed permit will establish effluent limitations, standards, prohibitions and other conditions on discharges from covered facilities. These conditions are based on existing national effluent guidelines, the state of Alaska's Water Quality Standards and material contained in the administrative record. A description of the basis for the conditions and requirements of the proposed general permit is given in the fact sheet. This is also notice of EPA's issuance of a Finding of No Significant Impact (FNSI) coverage under this GP for the new source facility, BP Exploration (Alaska), Inc.'s Badami facility covered by NPDES permit AKG–31–0001 which will be reauthorized with the number AKG–33–0001.

DATES: Interested persons may submit comments on the proposed reissuance of the general permit to EPA, Region 10 at the address below. Comments must be postmarked by July 7, 2003.

ADDRESSES: Comments on the proposed general permit reissuance should be sent to the attention of the Director, Office of Water, 1200 Sixth Avenue OW–130, Seattle, Washington 98101. Comments may also be submitted electronically to *godsey.cindi@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the proposed general permit and Fact Sheet are available upon request. Requests may be made to Audrey Washington at (206) 553–0523 or to Cindi Godsey at (907) 271–6561. Requests may also be electronically mailed to: *washington.audrey@epa.gov* or *godsey.cindi@epa.gov.*

The proposed general permit and Fact Sheet may also be found on the EPA Region 10 Web site at *www.epa.gov/r10earth/water.htm* then click on NPDES permits under Programs and draft permits under EPA Region 10 Information.

SUPPLEMENTARY INFORMATION: *Executive Order 12866:* The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12866 pursuant to section 6 of that order.

Regulatory Flexibility Act: After review of the facts presented in the notice printed above, I hereby certify pursuant to the provision of 5 U.S.C. 605(b) that this proposed general NPDES permit will not have a significant impact on a substantial number of small entities. Moreover, the permit reduces a significant administrative burden on regulated sources.

Dated: May 12, 2003.

Randall F. Smith,

Director, Office of Water, Region 10.

[FR Doc. 03–12764 Filed 5–20–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011623–002.

Title: APL/MOL/HMM Asia-U.S. Atlantic Coast Space Sharing Agreement.

Parties: American President Lines, Ltd., APL Co. Pte Ltd., Hyundai Merchant Marine Co. Ltd., Mitsui O.S.K. Lines, Ltd.

Synopsis: The agreement is amended to increase the number of vessels deployed and their capacity, rearrange certain of the vessel loops, adjust the space allocation among the parties and provide for certain operational actions.

Agreement No.: 011637–008.

Title: Ampac Cooperative Working Agreement.

Parties: TMM Lines Limited, LLC, Hamburg-Suüdamerikanische Dampfschifffahrts-gesellschaft KG d/b/a Columbus Line, Maruba S.C.A., Compania Chilena de Navegación Interoceánica, S.A.

Synopsis: The proposed agreement modification corrects the address of Columbus Line, deletes Japan from the geographic scope, revises Article 5(a) to reflect changes in the service operated under the agreement, revises Article 5(b)(1) to reflect changes in the chartering of slots under the agreement, revises Article 7 to eliminate the restriction on when a party may provide notice of resignation, and republishes the agreement in a third edition.

Agreement No.: 011692–003.

Title: Indamex Agreement.

Parties: Contship Containerlines, a division of CP Ships (UK) Limited, CMA CGM, S.A., The Shipping Corporation of India Ltd.

Synopsis: The proposed agreement modification deletes all conference-related provisions from the agreement and turns it into a rate discussion agreement. It also republishes the agreement in a fourth edition.

Agreement No.: 011794–002.

Title: COSCON/KL/YMUK/Hanjin/Senator Worldwide Slot Allocation & Sailing Agreement.

Parties: COSCO Container Lines Company, Limited, Kawasaki Kisen Kaisha, Ltd., Yangming (UK) Ltd., Hanjin Shipping Co., Ltd., Senator Lines GmbH.

Synopsis: The proposed agreement modification would restate the current vessel/TEU deployments by the parties, allow Senator Lines certain flexibility to adjust its vessel/TEU deployment without amendment of the agreement, change the arbitration clause to indicate that arbitration will occur in London under English law, and confirm that Senator Lines is not a VOCC.

Agreement No.: 011854.

Title: GreenSea Inc. Joint Service Agreement.

Parties: Green Chartering AS, Seatrade Group N.V.

Synopsis: The agreement establishes a joint service between the parties in the trade from ports on the Atlantic and Gulf Coasts of the United States to ports in Continental Europe, to be operated by a corporate entity known as GreenSea, Inc. It will be owned equally by the parties.

Agreement No.: 011855.

Title: CCNI/Maruba Slot Charter Agreement for Central America and Caribbe Service.

Parties: Compañia Chilena de Navegación Interoceánica, Maruba S.C.A.

Synopsis: The agreement authorizes the parties to charter slots to each other in the trade between Port Everglades and ports in Puerto Rico, on the one hand, and ports in Costa Rica, Guatemala, Dominican Republic and the Caribbean Coast of Colombia, on the other hand. Initial operations will involve two CCNI vessels of 300–TEU capacity offering weekly service. Maruba will be allocated up to 60 TEUs per voyage. The parties request expedited review.

Agreement No.: 201143.

Title: West Coast MTO Discussion Agreement.

Parties: California United Terminals, Inc., Husky Terminals, Inc., International Transportation Service, Inc., Long Beach Container Terminal, Inc., Marine Terminals Corp., Metropolitan Stevedore Company, Pasha Stevedoring & Terminals, L.P., SSA Marine, Trans Bay Container Terminal, Inc., Trans Pacific Container Service Corporation, Yusen Terminals, Inc.

Synopsis: The proposed agreement would allow the parties to discuss and agree on rates, charges, rules, regulations, procedures, practices, terms and other conditions of service pertaining to the transport, handling, receipt, or delivery of cargo by marine terminal operators.

Dated: May 16, 2003.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–12750 Filed 5–20–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants:

Uraycar Transport Services, Inc., 87 Madison Avenue, Irvington, NJ 07111, Officers: Elhu M. Nisbett, President (Qualifying Individual), Louis W. Nisbett, Vice President

Cargo Exprress International Shipping, Inc., 3010 Eastchester Road, Bronx, NY 10469, Officer: Erol Lewis, President (Qualifying Individual)

Global Ocean Freight, Inc., 4634 N. University Drive, Lauderhill, FL 33351–5733, Officers: Eti Cohen, Vice President (Qualifying Individual), Arik Y. Cohen, President

Hye Mi Express U.S.A., Inc., 3545 McCall Place, Suite A, Officers: Yong J. Kim, Managing Director (Qualifying Individual), Seung Ku Cho, President

Quality One International Shipping Inc., 3817 Dyre Avenue, Bronx, NY 10466, Officer: Howard Leslie, President, (Qualifying Individual)

AAA Cargo LLC dba AAA Cargo Express LLC, 14536 Roscoe Blvd., Suite #101, Panorama City, CA 91402, Officers: Jake J. Son, President (Qualifying Individual), Belen Mercano, Vice President/Treasurer

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

Caribbean Freight Forwarders, 4715 NW 72 Avenue, Miami, FL 33166, Officers: William Abbadie, President (Qualifying Individual), Maricel Abbadie, Vice President, Ofer Prori, CEO

All International Solutions Inc. dba All International Solutions, 8622 Bellanca Avenue, Suite G, Los Angeles, CA 90045, Officer: Alexis F. Robin, CEO (Qualifing Individual)

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Senator International Freight Forwarding LLC, 5148 Kennedy Road, Suite 700, Forest Park, GA 30297, Officers: Lorne Neal, C.O.O. (Qualifying Individual), Uwe Kirschbaum, President

AG International, 3300 West McGraw Street, #225, Seattle, WA 98199, George Aoyama, Sole Proprietor

Airmar Global International, 5126 S. State Road 7, Ft. Lauderdale, FL 33314, Officers: Germaine Indacochea, Vice President (Qualifying Individual), Andres Indacochea, President

Independent Brokerage, LLC, 800 Atlanta South Parkway, Suite 100, Atlanta, GA 30349, Officers: Robin T. Craig, Vice President (Qualifying Individual), Melody Kersey, President

Dated: May 16, 2003.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–12749 Filed 5–20–03; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03103]

Cooperative Agreement To Enhance Clinical Practices To Prevent Birth Defects and Developmental Disabilities and To Promote Health Among Women With Disabilities; Notice of Availability of Funds

Application Deadline: June 20, 2003.

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301, 311, and 317C of the Public Health Service Act, [42 U.S.C. 241, 243, and 247b–4], as amended. The Catalog of Federal Domestic Assistance number is 93.184.

B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2003 funds for a cooperative agreement program to enhance clinical practices to prevent birth defects and developmental disabilities and to promote health among women with disabilities. This program addresses the ''Healthy People 2010'' focus areas of Maternal, Infant and Child Health and Disability and Secondary Conditions.

The purpose of this program is to prevent birth defects and developmental disabilities and to improve access to preventive and health promotion obstetric/gynecologic services to women with disabilities through: (1) Understanding the current knowledge, skills, attitudes and practices among obstetricians/gynecologists and their clients related to the prevention of birth defects/developmental disabilities and to provision of services to women with disabilities; (2) Identifying the information and training needs of obstetricians/gynecologists in these areas; (3) Developing information, communication, education, and training programs to meet those needs; and, (4) Providing targeted training, education, and information to obstetricians/gynecologists for more effective practice.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the National Center on Birth Defects and Developmental Disabilities: Prevent birth defects and developmental disabilities and improve the health and quality of life of American's with disabilities.

Research involving human participants will not be supported under this cooperative agreement.

C. Eligible Applicants

Assistance will be provided only to applicants that are well established national, non-profit organizations who are: (1) Involved in providing health care services for women; (2) who are able to reach out to and work with, obstetricians/gynecologists to collect information AND to disseminate information to obstetricians/gynecologists and their clients; and, (3) who are able to provide them with proper education and training.

Note: Title 2 of the United States Code Section 1611 states that an organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

D. Availability of Funds

Approximately $250,000 is available in FY 2003 to fund one award. It is expected that the award will begin on or about September 1, 2003, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Recipient Financial Participation

Matching funds are not required for this program.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Collect information from obstetricians/gynecologists regarding their knowledge and application of interventions that have been proven to prevent birth defects/developmental disabilities, particularly before conception, such as the use of folic acid to prevent neural tube defects, abstinence from alcohol during pregnancy to prevent fetal alcohol syndrome, and the need for newborn screening.

b. Collect information about women's knowledge and use of interventions that prevent birth defects and developmental disabilities; in particular the use of folic acid by women whose infants were born with and died, of neural tube defects.

c. Collect information about obstetricians/gynecologists' ability to provide services to women with disabilities; in particular: their training in providing services to women with disabilities; access of their facilities to women in wheelchairs; appropriateness of the instruments/machines/technology in their offices for providing services to women with disabilities (exam tables, mammogram machines, etc).

d. Analyze data, organize and disseminate information collected from obstetricians/gynecologists and their clients.

e. Use information to design and implement communication, education and training activities that will promote professional development for obstetricians/gynecologists in birth defects and developmental disabilities and improve provider health care practices and prevention of birth defects.

f. Evaluate the effectiveness of these programs in enhancing the ability of obstetricians/gynecologists in providing effective prevention/health promotion services.

g. Collaborate with organizations such as the American Academy of Pediatrics, American College of Obstetricians and Gynecologists, March of Dimes, American College of Nurse Midwives and others that could provide professional development activities and assist in the dissemination of information on birth defects and health promotion for women with disabilities.

h. Convene selected panels of experts to assist in identifying the knowledge and practices in the areas related to birth defects and developmental disabilities, and to provide expert opinions and advice on needed research services and education.

i. Disseminate information on prevention of birth defects, developmental disabilities and health promotion for women with disabilities.

j. Develop and utilize collaborative relationships with State and local medical societies and health care professionals, in order to enhance health care providers' understanding of the information and resources available in the areas relating to birth defects prevention and health promotion among women with disabilities.

k. Identify research topics that address prevention effectiveness and development of best practices.

2. CDC Activities

a. Participate in the panel of experts meeting and assist in the identification of knowledge and practices in the areas related to birth defects and developmental disabilities, and disability and health.

b. Assist in developing and evaluating projects in health and disability services.

c. Assist in providing data for targeting or evaluation of various initiatives carried out through this project.

d. Participate in materials development and evaluation to support interventions.

e. Assist in the development of forums and critical issues related to health and disability services.

f. Participate in the development of health care provider training programs.

g. Participate in planning meetings that identify gaps in services and research topics on prevention effectiveness.

h. Serve as a resource for sharing regional and/or national pertinent data.

F. Content

Letter of Intent (LOI)

A LOI is requested for this program. The Program Announcement title and number must appear in the LOI. The narrative should be no more than 2 pages, double-spaced, printed on one side, with one-inch margins, and unreduced 12-point font. Your letter of intent will be used to enable CDC to determine the level of interest in the announcement and plan the review more efficiently.

Applications

The Program Announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. The application will be evaluated on the criteria listed, so it is important to follow them in completing the description of the program plan. The application narrative should be no more than 25 double-spaced pages, printed on one side, with one-inch margins, and unreduced font. Applicants should include a Table of Contents (not to exceed one page) to provide a guide for locating key topics.

1. Understanding of the Project. Briefly identify and describe the target audience of the project.

2. Objectives. Establish long-range (five year) and short-term (one year) objectives for programmatic plans. Objectives should be specific, measurable, time-phased and realistic.

3. Operational Plan. Describe the operation plan for achieving the objectives. Describe each component or major activity and how it will be carried out.

4. Evaluation Plan. Discuss the plan for monitoring progress toward each of the objectives.

5. Program Management. Give the name and qualifications of the professional personnel who will manage this project.

6. Collaborate with State/Local Health Departments. Describe plans for coordination with state or local health departments.

7. Budget. Submit a detailed and line item justification that is consistent with the project purpose and proposed activities.

G. Submission and Deadline

Letter of Intent (LOI) Submission

On or before June 2, 2003, submit the LOI to the Program Officer, at the address designated for programmatic technical assistance identified in the ''Where to Obtain Additional Information'' section on this announcement.

Application Forms

Submit the original and two copies of PHS–5161 (OMB Number 0937–0189) Forms are available at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.* If you do not have access to the internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section at telephone number (770) 488–2700. Application forms can be mailed to you.

Submission Date, Time, and Address

The application must be received by 4 p.m. Eastern Time on June 20, 2003. Submit the application to: Technical Information Management Section—PA #, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgement of Application Receipt

A postcard will be mailed by PGO–TIM, notifying you that CDC has received your application.

Deadline

Letters of intent and applications shall be considered as meeting the deadline if they are received before 4 p.m. Eastern Time on the deadline date. Any applicant who sends their application by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Any application that does not meet the above criteria will not be eligible for competition, and will be discarded. The applicant will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Application

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the purpose

section of this announcement. Measures must be objective and quantitative and must measure the intended outcome. The measures of effectiveness must be submitted with the application and will be an element of evaluation.

An independent review group appointed by CDC will evaluate each application against the following criteria:

1. The adequacy of the operational plans for carrying out the various initiatives involved in the project. (30 points)
2. The extent to which professional personnel proposed to be involved in this project are qualified, including evidence of past achievements appropriate to this project (20 points)
3. The degree to which the proposed objectives are clearly stated, realistic, time-phased, and related to the purpose of the project. (15 points)
4. The quality and feasibility of the evaluation plan for the various initiatives involved in the project. (15 points)
5. The extent to which the applicant understands the requirements, problems, objectives and complexities of the project. (10 points)
6. The extent to which the applicant proposes potentially effective coordination with state/local health departments. (10 points)
7. Budget and its description. The applicant must provide justification for budget expenditures as well as appropriateness of activities proposed in their application. (Not scored)

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of

1. Interim progress report, which will be due on April 22nd of each budget year. The progress report will serve as your non-competing continuation application, and must contain the following elements:
   a. Current Budget Period Activities Objectives;
   b. Current Budget Period Financial Progress;
   c. New Budget Period Program Proposed Activity and Objectives;
   d. Detailed Line-Item Budget and Justification; and
   e. Additional Requested Information.
2. Financial status report, due no more than 90 days after the end of the budget period (December 30th of each budget year); and
3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Additional Requirements

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement, as posted on the CDC web site.

AR–09 Paperwork Reduction Act

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

AR–14 Accounting System Requirements

AR–15 Proof of Non-Profit Status

Executive Order 12372 does not apply.

J. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—*http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements.''

For general questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For business management technical assistance, contact: Sheryl Heard, Grants Management Specialist, Acquisition and Assistance Branch B., Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146. Telephone number: 770–488–2723. *Email: slh3@cdc.gov.*

For program technical assistance, contact: Hani Atrash, Associate Director for Program Development, National Center on Birth Defects and Developmental Disabilities, 4770 Buford Highway, Atlanta, Georgia 30341, Telephone number: 770–488–4943, *Email: hka1@cdc.gov.*

Dated: May 15, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–12709 Filed 5–20–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03070]

Surveillance and Epidemiologic Research of Duchenne and Becker Muscular Dystrophy; Notice of Availability of Funds

Application Deadline: July 21, 2003.

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Sections 301, 311 and 317C of the Public Health Service Act [42 U.S.C. 241, 243, and 247b–4 as amended]. The Catalog of Federal Domestic Assistance number is 93.184.

B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2003 funds for a cooperative agreement program on surveillance and epidemiologic research of Duchenne and Becker Muscular Dystrophy (DBMD). This Program addresses the ''Healthy People 2010'' focus areas for Disability and Secondary Conditions.

The purpose of the program is to support (1) the development and/or expansion of active case ascertainment surveillance systems to characterize the epidemiology of DBMD and it's complications; and (2) the participation of the state DBMD surveillance system in the Collaborative DBMD Project. Long-term population-based follow-up research activities will be planned to describe history of treated and/or untreated cases, and to determine factors that affect outcome of the condition among three populations: (a) Those who access care at specialty clinics (*e.g.*, Muscular Dystrophy Association (MDA) or other muscular dystrophy clinics), (b) those who receive their care elsewhere, and (c) those who are not receiving care or are undiagnosed. See Attachment I for Background and Definitions. All attachments referenced in this announcement are posted with the announcement on the CDC Web site.

Measurable outcomes of this program will be in alignment with the following performance goal for the National Center for Birth Defects and Developmental Disabilities (NCBDDD): to find causes and risk factors for birth defects and developmental disabilities in order to develop prevention strategies.

C. Eligible Applicants

Assistance will be provided only to the health departments of States or their bona fide agents including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian tribal governments.

Recipients funded under CDC Program Announcement 02172, (Surveillance and Epidemiologic Research of Duchenne and Becker Muscular Dystrophy and Other Single Gene Disorders) currently involved in type 1 projects are not eligible. *See* Attachment II for a list of the States currently funded.

To be eligible, applicants must document a study population of at least 30,000 live births per year within a State, a contiguous area of a State (such as the catchment of a local health agency), or an area comprising a combination of States, based on U.S. Census Data. In addition, a copy of the state Legislation that allows the authority for state Health Departments to collect information on birth defects, genetic diseases or related conditions needs to be included.

This information should be placed directly behind the face page of the application. Applications that fail to submit the evidence requested above will be considered non-responsive and returned without review.

Note: Title 2 of the United States Code, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

D. Funding

Availability of Funds

Approximately $1,000,000 is available in FY 2003 to fund up to two awards. It is expected that up to two awards will be made, ranging from $400,000 to $500,000. It is expected that the award will begin on or about September 1, 2003, and will be made for a 12-month budget period within a two-year project period. Funding estimates may change.

Continuation awards within the project period will be made on the basis of satisfactory programmatic progress and the availability of funds.

Recipient Financial Participation

Matching funds are not required for this program.

Funding Preference

Relative to and consistent with the technical merit of the application, funding preference will be given to applicants who complement the existing funded programs by balancing the geographic and racial/ethnic diversity of the multi-state collaborative effort.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. Recipient Activities. CDC will be responsible for the activities listed under 2. CDC Activities.

1. Recipient Activities:

a. Develop, implement and evaluate methods and approaches which will improve or expand the capacity of the applicant's existing surveillance system to ascertain cases and generate timely population-based data of DBMD and its complications. Make any necessary modifications to the surveillance system to comply with the Collaborative DBMD Project case definitions. The Collaborative DBMD Project case definitions and other information developed by the current grantees may be obtained from the programmatic technical assistance point-of-contact in the ''Where to Obtain Additional Information'' section.

b. Establish or enhance collaborative relationships with appropriate stakeholders, *i.e.*, specialty treatment centers (*e.g.*, MDA clinics, other muscular dystrophy clinics), state or regional chapters or associations related to genetic conditions, hospitals, emergency care centers, private physicians, managed care organizations, clinical and diagnostic laboratories that provide diagnosis of genetic conditions (*e.g.*, creatine kinase measurements, muscle biopsy analysis, genetic analysis, *etc.*), and others.

c. Collaborate with other funded recipients to design and develop one common protocol for all recipients to implement and evaluate as described in Attachment III. The Collaborative DBMD Project current draft protocol and other information developed by the current grantees may be obtained from the programmatic technical assistance point-of-contact in the ''Where to Obtain Additional Information'' section.

d. Implement active case ascertainment of DBMD among reporting sources to determine the prevalence of the genetic condition(s) in the defined geographic area, including a complete count of all prevalent cases, including ages birth to 21 years, and supplemented in later years by newly diagnosed cases.

e. Describe the source, frequency, and type of preventive and medical care among persons with DBMD among three populations: (a) Those who access care at specialty clinics (*e.g.*, MDA or other muscular dystrophy clinics), (b) those who receive their care elsewhere, and (c) those who are not receiving care or are undiagnosed.

f. Determine the prevalence of related complications.

g. Conduct population-based long-term follow-up of persons with DBMD to relate health outcomes to the source, frequency, and type of preventive and therapeutic care.

h. Obtain buccal samples or other biologics, as agreed-upon by awardees, from children with DBMD and other family members.

i. Evaluate and disseminate the findings.

2. CDC Activities:

a. Provide technical assistance in designing, developing, and evaluating methodologies and approaches used for population-based surveillance of genetic conditions.

b. Provide technical assistance in the collection, management, and analysis of surveillance data related to genetic conditions.

c. Provide technical assistance in the development and planning of the study protocol. Provide final approval for the study protocol.

d. Provide technical assistance in the analysis and reporting of aggregate surveillance data collected from funded initiatives; coordinate and consolidate the transfer of tabulated data, analyses, and conclusions among recipients.

e. Provide technical assistance to national, state, or regional programs in the use of data to develop or improve care programs for genetic conditions.

f. Provide technical assistance to recipients in developing a plan for the collection, storage and access of biologic samples.

g. Provide technical assistance to recipients in the evaluation and dissemination of the findings.

F. Content

Letter of Intent (LOI)

A LOI is requested for this program. The Program Announcement title and number must appear in the LOI. The narrative should be no more than two, double-spaced pages, printed on one side, with one inch margins and 12 point font. The LOI will not be used to eliminate potential applicants, but it will enable CDC to determine the level of interest in this announcement, and plan the review more efficiently. The LOI should include the following

information: Program announcement number; applicant's name and address; project director's name, phone number, and e-mail address; a brief description of the number of births in the defined geographic region and a brief description of the planned cooperative agreement activities.

Applications

The Program Announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The program plan should include activities to be conducted over the entire two year project period. The application's narrative (excluding budget narrative and any appendices) should be no more than 40 double-spaced pages, printed on one side, with one inch margins, and no smaller than 12-point font. Number each page consecutively and provide a complete table of contents.

The application should contain the following:

1. Executive Summary (one-page, may be single spaced):
   This section should briefly summarize:
   a. amount of federal assistance requested
   b. existing capacity
   c. key objectives and activities
2. Proposal Narrative
   a. introduction, statement of need, proposed goals and objectives
   b. existing program and capacity
   c. proposed methods and activities
   d. project management and project staff
   e. proposed methods to evaluate the attainment of objectives
3. Budget and Budget Justification—Provide a detailed budget which indicates the anticipated costs. Please provide a copy of the appropriate indirect rate agreement letter or cost allocation plan.
4. Human Subjects
5. Appendices, which may include letters of commitment from key collaborators (including specialty clinics such as MDA clinics and other muscular dystrophy clinics), resumes of key staff, brief summary reports of analyses of surveillance data for other genetic conditions.

G. Submission and Deadline

LOI Submission

On or before June 20, 2003, submit the LOI to the Program Technical Assistance contact, at the address designated for programmatic technical assistance identified in the ''Where to Obtain Additional Information'' section of this announcement.

Application Forms

Submit the signed original and two copies of PHS–5161 (OMB Number 0920–0428) Forms are available at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.* If you do not have access to the internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) at telephone number (770) 488–2700. Application forms can be mailed to you.

Submission Date, Time, and Address

The application must be received by 4 p.m. Eastern Time on July 21, 2003. Submit the application to: Technical Information Management—PA #03070, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Rd., Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgment of Application Receipt

A postcard will be mailed by PGO–TIM, notifying you that CDC has received your application.

Deadline

Letters of intent and applications will be considered as meeting the deadline if they are received before 4 p.m. Eastern Time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to: (1) Carrier error (when the carrier accepted the package with a guarantee for delivery by the closing date and time) or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications which do not meet the above criteria will not be eligible for competition and will be discarded. Applicants will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals as stated in section ''B. Purpose'' of this announcement. Measures must be objective/quantitative and must measure the intended outcome. These measures of effectiveness shall be submitted with the application and shall be an element of evaluation.

Each application will be evaluated and scored individually by an objective review panel. Evaluations and scoring will be conducted according to the following criteria:

1. Methods and Activities (30 points):

a. The quality of the applicant's plan for conducting program activities and the extent to which surveillance methods proposed are: (1) Appropriate to accomplish stated goals and objectives; (2) adaptable to a variety of health care settings, and to the collection of longitudinal data; (3) accurate to produce valid and reliable data, and (4) feasible within programmatic and fiscal restrictions.

b. The applicant's willingness to cooperate with CDC and other funded applicants to (1) identify optimal surveillance methods, (2) develop standardized surveillance protocols, data collection instruments, interview questionnaires, progress report forms, and database software, and (3) modify proposed methods and activities to conform to standardized protocols.

2. Capacity (20 points):

The extent to which the applicant can access the state or regional community with genetic conditions that is receiving care within and outside of the specialty clinics (*e.g.*, MDA and other muscular dystrophy clinics), as measured by (1) the extent that this proposal incorporates shared responsibility between specialty clinics and state or local health departments as delineated in letters of agreement, and (2) the extent of collaboration obtained from these entities with other organizations involved in the delivery of care and/or services to persons with genetic conditions.

3. Goals and objectives (20 points):

The extent to which the project goals and objectives are relevant, specific, achievable, measurable, time-linked and can be addressed through the proposed methods.

4. Management and Staffing (20 points):

a. The extent to which the scientific resources for project planning and data management/analysis are demonstrated within the applicant's organization or through collaboration with universities or other agencies.

b. The extent to which proposed staffing, staff qualifications and experience, and project organization indicates ability to accomplish the active case findings and other objectives of the program.

5. Evaluation (10 points):

The degree to which the applicant includes plans to evaluate the attainment of proposed objectives and to evaluate the quality of the data collected.

6. Human Subjects (not scored):

Does the application adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects? (Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks are so inadequate as to make the entire application unacceptable.)

7. Budget (not scored):

The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of the cooperative agreement funds.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Interim progress report, no less than 90 days before the end of the budget period. The interim progress report will serve as your non-competing continuation application and must include the following elements:

a. Current Budget Period Activities Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Proposed Activity Objectives.

d. Detailed Line-Item Budget and Justification.

e. Additional Requested Information.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Additional Requirements

The following additional requirements are applicable to this program. For a complete description of each, see Attachment IV of the program announcement as posted on the CDC web site.

AR–1 Human Subjects Requirements
AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions

J. Where to Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC home page Internet address: *http://www.cdc.gov*. Click on ''Funding'' then ''Grants and Cooperative Agreements.''

For general questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For business management and budget assistance, contact: Sheryl L. Heard, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, Announcement 03070, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: (770) 488–2723, Email address: *slh3@cdc.gov*.

For program technical assistance contact: Aileen Kenneson, National Center on Birth Defects and Developmental Disabilities, Centers for Disease Control and Prevention, 1600 Clifton Road, MailStop F–35, Atlanta, GA 30333, Telephone: (404) 498–3039, Email address: *alk6@cdc.gov*.

Dated: May 14, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–12708 Filed 5–20–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: South Carolina Traumatic Brain Injury Follow-Up Study, Program Announcement #02073

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): South Carolina Traumatic Brain Injury Follow-Up Study, Program Announcement #02073.

Times and dates: 7:30 p.m.–7:45 p.m., June 11, 2003. (Open). 7:45 p.m.–9:30 p.m., June 11, 2003. (Closed). 8 a.m.–6:30 p.m., June 12, 2003. (Closed).

Place: The Francis Marion Hotel, 387 King Street, Charleston, SC 29403, Telephone 843–722–0600.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement #02073.

For Further Information Contact: Richard W. Sattin, M.D., F.A.C.P., Associate Director for Science, Associate Director for Division of Injury and Disability Outcomes and Programs, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway, NE, MS–K02, Chamblee, GA 30341, Telephone 770–488–4031.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 14, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–12706 Filed 5–20–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval of Michigan State Plan Amendment (SPA) 02–021

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on July 10, 2003, at 10 a.m., at the Centers for Medicare & Medicaid Services (CMS), Chicago Regional Office, 233 North Michigan Avenue; Suite R5–5 NW Minnesota; Chicago, Illinois 60601.

Closing Date: Requests to participate in the hearing as a party must be filed with the presiding officer by June 5, 2003.

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes, Presiding Officer, CMS, 2520 Lord Baltimore

Drive, Suite L, Baltimore, Maryland 21244–2670, Telephone: (410) 786–2055.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider the decision to disapprove Michigan SPA 02–021, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on December 23, 2002. This SPA was disapproved on February 14, 2003. In this amendment, Michigan proposes to allow the imposition of prior authorization requirements in the Medicaid program on prescription drugs when the manufacturer of the drug does not offer rebates to two State-funded, non-Medicaid programs. The State-funded programs are the Children's Special Health Care Services program (CSHCS) and the State Medical program (SMP).

At issue is whether CMS properly concluded as a basis for disapproving the amendment that: (1) The State had not demonstrated that its proposed prior authorization program would be consistent with simplicity of administration and the best interests of Medicaid recipients, as required by section 1902(a)(19) of the Social Security Act (the Act); and (2) the State had not demonstrated that its proposed prior authorization program would be consistent with efficiency, economy, or quality of care, as required by section 1902 (a)(30)(A) of the Act. In addition, Michigan contends that CMS does not have the authority to review the State's implementation of prior authorization requirements in the Medicaid program, other than for consistency with section 1927(d)(5) of the Act.

As indicated in a letter to state Medicaid directors dated September 18, 2002, CMS stated that it would review proposed state plan amendments seeking to secure prescription drug benefits, rebates, or discounts for non-Medicaid populations for consistency with the goals and objectives of the Medicaid program. After review, CMS did not find the evidence presented by the State in support of this SPA demonstrated that its prior authorization program furthered Medicaid goals and objectives. The CMS concluded that Michigan failed to show that a significant proportion of beneficiaries in either the CSHCS or SMP programs would meet the requirements needed to become eligible for Medicaid if their pharmacy benefit was terminated. In light of the burden that prior authorization may impose on Medicaid beneficiaries and the absence of documented benefit to current or potential Medicaid eligibles, CMS determined that the State had failed to document that such prior authorization procedures would further the goals and objectives of the Medicaid program and thus be consistent with sections 1902(a)(19) and 1902(a)(30) of the Act.

Therefore, based on the reasoning above, and after consultation with the Secretary as required under 42 CFR 430.15 (c)(2), CMS disapproved Michigan SPA 02–021.

Section 1116 of the Act and 42 CFR part 430 establish Departmental procedures that provide an administrative hearing for reconsideration of a disapproval of a state plan or plan amendment. The CMS is required to publish a copy of the notice to a state Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the presiding officer before the hearing begins, in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The notice to Michigan announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Janet Olszewski,
Director, Michigan Department of Community Health,
Lewis Cass Building,
320 South Walnut Street—Sixth Floor
Lansing, Michigan 48913

Dear Ms. Olszewski:

I am responding to your request for reconsideration of the decision to disapprove Michigan State Plan Amendment (SPA) 02–021, which was submitted on December 23, 2002. This SPA was disapproved on February 14, 2003. In this amendment, Michigan proposes to allow the imposition of prior authorization requirements in the Medicaid program on prescription drugs when the manufacturer of the drug does not offer rebates to two State-funded, non-Medicaid programs. The State-funded programs are the Children's Special Health Care Services program (CSHCS) and the State Medical program (SMP).

At issue is whether the Centers for Medicare & Medicaid Services (CMS) properly concluded as a basis for disapproving the amendment that: (1) The State had not demonstrated that its proposed prior authorization program would be consistent with simplicity of administration and the best interests of Medicaid recipients, as required by section 1902(a)(19) of the Social Security Act (the Act); and (2) the State had not demonstrated that its proposed prior authorization program would be consistent with efficiency, economy, or quality of care, as required by section 1902 (a)(30)(A). In addition, Michigan contends that CMS does not have the authority to review the State's implementation of prior authorization requirements in the Medicaid program, other than for consistency with section 1927(d)(5) of the Act.

As indicated in a letter to state Medicaid directors dated September 18, 2002, CMS stated that it would review proposed state plan amendments seeking to secure prescription drug benefits, rebates, or discounts for non-Medicaid populations for consistency with the goals and objectives of the Medicaid program. After review, CMS did not find that the evidence presented by the State in support of this SPA demonstrated that its prior authorization program furthered Medicaid goals and objectives. The CMS concluded that Michigan failed to show that a significant proportion of beneficiaries in either the CSHCS or SMP programs would meet the requirements needed to become eligible for Medicaid if their pharmacy benefit was terminated. In light of the burden that prior authorization may impose on Medicaid beneficiaries and the absence of documented benefit to current or potential Medicaid eligibles, CMS determined that the State had failed to document that such prior authorization procedures would further the goals and objectives of the Medicaid program and thus be consistent with sections 1902(a)(19) and 1902(a)(30) of the Act. Therefore, based on the reasoning set forth above, and after consultation with the Secretary as required under 42 CFR 430.15(c)(2), CMS disapproved Michigan SPA 02–021.

I am scheduling a hearing on your request for reconsideration to be held on July 10, 2003, at 10 a.m., Centers for Medicare & Medicaid Services, Chicago Regional Office, 233 Michigan Avenue; Suite R5–5 NW Minnesota; Chicago, Illinois 60601.

If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing.

The presiding officer may be reached at (410) 786–2055.

Sincerely,
Thomas A. Scully.

(Sect. 1116 of the Social Security Act (42 U.S.C. section 1316); (42 CFR 430.18))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: May 12, 2003.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 03–12697 Filed 5–20–03; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval of Arkansas (SPA) 02–17 State Plan Amendment

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on June 25, 2003, at 10 a.m., at the Centers for Medicare & Medicaid Services (CMS), Dallas Regional Office, 1301 Young Street, Room 1119; Dallas, Texas 75202.

Closing Date: Requests to participate in the hearing as a party must be received by the presiding officer by June 5, 2003.

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes, Presiding Officer CMS, 2520 Lord Baltimore Drive, Suite L, Baltimore, Maryland 21244–2670, Telephone: (410) 786–2055.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider the decision to disapprove Arkansas State Plan Amendment (SPA) 02–17, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on July 29, 2002. This amendment proposes to provide supplemental payments to physicians and other allied health professionals who provide services through Faculty Group Practices associated with the University of Arkansas School of Medicine. The supplemental payment would be equal to the difference between the existing fee schedule rates and Faculty Group Practices' charges. CMS issued its initial determination disapproving Arkansas SPA 02–17 on March 6, 2003.

Arkansas timely requested reconsideration by letter dated April 14, 2003. At issue is whether the State has demonstrated that this SPA is consistent with the requirements of section 1902 (a)(30)(A) of the Social Security Act (the Act). The CMS concluded that the information provided with this SPA was insufficient to document consistency with economy, efficiency, and quality of care. Arkansas indicated that no other major payers in the State pay these Faculty Group Practices at these levels; indeed, Arkansas indicated that the five largest private third-party payers pay less than half of these levels. Arkansas provided no documentation to show that the Faculty Group Practices have higher costs than other providers of the same type in the State. In the light of evidence, CMS found that the State had not established that it was consistent with economy or efficiency for Medicaid to pay twice the rate paid by other third-party insurers for the same services. Moreover, the annualized payment methodology proposed by the State is not a customary method for paying physicians and other allied health professionals. The methodology would make it difficult to track payments for specific services and would complicate auditing processes. In the initial decision, CMS also cited the complicated nature of this payment scheme and difficulty in tracking and auditing payments for services as a reason why the proposed payment methodology was not consistent with section 1902(a)(30)(A) of the Act.

Section 1116 of the Act and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Centers for Medicare & Medicaid Services (CMS) is required to publish a copy of the notice to a state Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice. Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The notice to Arkansas announcing an administrative hearing to reconsider the disapproval of the SPA reads as follows:

Mr. Kurt Knickrehm, Director
Arkansas Department of Human Services
Donaghey Plaza South
PO Box 1437, Slot S401
Little Rock, Arkansas 72203–1437

Dear Mr. Knickrehm:

I am responding to your request for reconsideration of the decision to disapprove Arkansas State Plan Amendment (SPA) 02–17, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on July 29, 2002. This amendment proposes to provide supplemental payments to physicians and other allied health professionals who provide services through Faculty Group Practices associated with the University of Arkansas School of Medicine. The supplemental payment would be equal to the difference between the existing fee schedule rates and Faculty Group Practices' charges. The CMS issued its initial determination disapproving Arkansas SPA 02–17 on March 6, 2003. Arkansas timely requested reconsideration by letter dated April 14, 2003.

At issue is whether the State has demonstrated that this SPA is consistent with the requirements of section 1902(a)(30)(A) of the Social Security Act. The CMS concluded that the information provided with this SPA was insufficient to document consistency with economy, efficiency and quality of care. Arkansas indicated that no other major payers in the State pay these Faculty Group Practices at these levels; indeed, Arkansas indicated that the five largest private third-party payers pay less than half of these levels. Arkansas provided no documentation to show that the Faculty Group Practices have higher costs than other providers of the same type in the State. In the light of evidence,CMS found that the State had not established that it was consistent with economy or efficiency for Medicaid to pay twice the rate paid by other third-party insurers for the same services. Moreover, the annualized payment methodology proposed by the State is not a customary method for paying physicians and other allied health professionals. The methodology would make it difficult to track payments for specific services and would complicate auditing processes. In the initial decision, CMS also cited the complicated nature of this payment scheme and difficulty in tracking and auditing payments for services as a reason why the proposed payment methodology was not consistent with section 1902(a)(30)(A).

This notice announces an administrative hearing on June 25, 2003, at 10 a.m., Centers for Medicare & Medicaid Services (CMS), Dallas Regional Office, 1301 Young Street, Room 1119; Dallas, Texas 75202.

If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410) 786–2055.

Sincerely,
Thomas A. Scully.

(Sect. 1116 of the Social Security Act (42 U.S.C. section 1316); (42 CFR 430.18)) (Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: May 12, 2003.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 03–12698 Filed 5–20–03; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

State Grants for Election Assistance for Individuals With Disabilities (EAID)

AGENCY: Administration on Developmental Disabilities (ADD), Administration for Children and Families, Department of Health and Human Services.

ACTION: Notification of the Availability of Fiscal Year 2003 Funds under the Help America Vote Act, Public Law (Pub. L.) 107–252, title II subtitle D, part 2, section 261, Payments to States and Units of Local Governments to Assure Access for Individuals with Disabilities (42 U.S.C. 15421).

SUMMARY: The purposes of this notice are: (1) To set forth the requirements that must be met by a State seeking a payment under 42 U.S.C. 15421 of the Help America Vote Act of 2002 (HAVA); and (2) to secure assurances from such a State related to conditions prior to receiving a payment.

EFFECTIVE DATE: May 21, 2003.

FOR FURTHER INFORMATION CONTACT: Contact Diann Winford at (202) 690–5963, *dwinford@acf.hhs.gov* or Carla Brown at (202) 690–8332, *crbrown@acf.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Part I: Introduction

The Help America Vote Act (HAVA), signed into law by President George W. Bush on October 29, 2002, contains several provisions that will enable an applicant to establish, expand, and improve access to and participation by individuals with the full range of disabilities (*e.g.*, blindness or visual impairment, deafness or hearing impairment, mobility-related, dexterity-related, emotional or intellectual) in the election process. The Catalog of Federal Domestic Assistance Number for this announcement is: 93.617.

Background

On February 20, 2003, in Division (N)—''Emergency Relief and Offsets,'' Title I Election Reform, Disabled Voters Services, the Miscellaneous Appropriations Act, 2003, Pub. L. 108–7, Congress appropriated $13 million for States to operate the Election Assistance for Individuals with Disabilities (EAID) grant program. HAVA assigned responsibility for the EAID to the Secretary of Health and Human Services (the Secretary), who has assigned responsibility for carrying out this program to the Administration for Children and Families (ACF). Within ACF, the Administration on Developmental Disabilities (ADD) is responsible for the administration of the EAID grant program.

Eligible Applicants

As defined by section 901 of HAVA, States (including the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands) are eligible to apply for grants under the EAID program. Grants are not available to local units of government directly from the Federal Government in FY 2003 because Division (N)—''Emergency Relief and Offsets,'' Title I Election Reform, Disabled Voters Services, the Miscellaneous Appropriations Act, 2003, Pub. L. 108–7, only appropriated funds for grants to States for FY 2003. Thus, while units of local government as well as States are eligible for funding under Section 261 of the Help America Vote Act, the annual appropriations statute did not make funds available for grants to local governments.

Availability and Distribution of Funds

Congress appropriated $13,000,000 for payments to States for Federal fiscal year 2003. Payment amounts to States and Territories will be based on the relative size of the voting age population (*i.e.*, number of individuals 18 years of age or older as reported in the 2000 U.S. Census) of those States and Territories requesting payment, with the exception that no State or Territory applying for funds shall receive a payment of less than $100,000. See Table I for the amount reserved for each State and Territory, assuming all 55 States and Territories submit applications. If fewer than 55 States and Territories submit applications, those States and Territories applying for payment will receive a proportionately higher amount than that listed on Table I.

Any payment distributed shall remain available until expended.

In order to receive a payment a State must meet all of the requirements in Part II of this Notice. State governments receiving funds under this announcement will need to collaborate with local chief election officials and local units of government to determine where and how to expend funds.

The Federal Government reserves the right to audit expenditure of funds received under this announcement pursuant to section 902 of the Help American Vote Act, 42 U.S.C. 15542 and 45 CFR 92.26, where applicable.

Use of Allotments

Section 261 of HAVA provides that funds be made available to:

a. Make polling places, including the path of travel, entrances, exits, and voting areas of each polling facility, accessible to individuals with the full range of disabilities (*e.g.*, blindness or visual impairment, deafness or hearing impairment, mobility-related, dexterity-related, emotional, or intellectual).

b. Provide the same opportunity for access and participation (including privacy and independence) to individuals with the full range of disabilities.

c. Train election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with the full range of disabilities in elections for Federal office.

d. Provide individuals with the full range of disabilities with information about the accessibility of polling places.

Part II: Application Requirements

All of the following conditions must be met by an applicant seeking a payment under 42 U.S.C. 15421 of the Help America Vote Act of 2002. An applicant must agree to these conditions in writing prior to receiving a payment by submitting an application. The conditions are to ensure that a payment will be used in compliance with HAVA. Payments must be used to pay for the activities described under Part I, Use of Allotments.

Conditions

1. Some portion of the grant must be used for each of the following activities.

a. Make polling places, including the path of travel, entrances, exits, and voting areas of each polling facility, accessible to individuals with the full range of disabilities.

b. Provide the same opportunity for access and participation (including privacy and independence) to individuals with the full range of disabilities as for other voters.

c. Train election officials, poll workers, and election volunteers on how best to promote the access and

participation of individuals with the full range of disabilities in elections for Federal office.

d. Provide individuals with the full range of disabilities with information about the accessibility of polling places.

2. In an application an applicant must provide:

a. The name of the State submitting the application.

b. The name of the Chief Election Official of the State submitting the application.

c. Contact person: name, title, address, phone, fax, and e-mail address.

d. A description of what the applicant intends to do in *each* of the four categories of activities outlined under #1 above.

e. How much of the payment that the applicant intends to spend on each of the four categories of activities outlined in #1 above.

f. An assurance that six months after the ending of the fiscal year in which a payment is received, the Chief Election Official or his/her designee will submit a report to the Administration on Developmental Disabilities for the Secretary of Health and Human Services describing how the payment received was used with regard to the four categories of activities.

3. The application must include a completed SF 424, available at this Web address: *http://www.acf.hhs.gov/programs/add/announce.htm*

4. The application must include the following certifications:

a. Anti-Lobbying Certification and Disclosure Form (45 CFR part 93).

b. Other Certifications: The signature on the application by the authorized official attests to the intent to comply with the following other certifications:

A. Certification Regarding Drug-Free Work Place (45 CFR part 76)

B. Debarment Certification (45 CFR 76); and

C. Certification Regarding Environmental Tobacco Smoke.

5. The application must be signed by the Chief Election Official.

6. An application must be received 45 days from date of this notice, and no later than 4:30 p.m. EDT, at the U.S. Department of Health and Human Services, ACF/Office of Grants Management, 370 L'Enfant Promenade SW, Mail Stop 326F, Washington, DC 20447–0002, Attention: Joseph Lonergan. Hand-delivered applications should be delivered to Joseph Lonergan, Director, Division of Mandatory Grants, Office of Grants Management, 901 D Street, SW., 4th Floor East, Washington, DC (Telephone number: (202) 401–6603)). Any applications received after 4:30 p.m. on the deadline date will not be considered for payment.

Part III: Additional Information

Closing Date for Receipt of Assurances

The closing date for receipt of all applications is 45 days from the date of this notice.

Grant Administration Regulations

The regulations that govern the administration of these grants are: 45 CFR part 16—Procedures of the Departmental Grant Appeals Board; 45 CFR part 30—Claims Collection; 45 CFR part 76—Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants); 45 CFR part 80—Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964; 45 CFR part 81—Practice and Procedure for Hearings Under Part 80 of This Title; 45 CFR part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance; 45 CFR part 91—Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance; 45 CFR part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; and 45 CFR part 93—New Restrictions on Lobbying.

Reporting Requirements

Each grantee is required to submit annually a narrative report that describes how the funds are used in regard to the four categories of activities authorized under 42 U.S.C. 15461 of the Help America Vote Act of 2002. These reports are due no later than March 31 of each year. Reports must be mailed to:

Administration on Developmental Disabilities, 200 Independence Avenue, Southwest, Room 300–F, Washington, DC 20201, Attention: Debbie Powell.

Expenditures under the EAID program are to be reported using a Financial Status Report (SF–269A). Grantees are required to submit annual financial reports (SF–269A) at the end of each 12 month grant period (September 1–August 31) until all funds have been expended. Funds under EAID are available until expended. Reports are due 90 days after the end of the grant period (November 30).

Submit the original SF–269A to ACF at the address below:

Administration for Children and Families, Office of Administration, Division of Mandatory Grants, Attn: Joseph Lonergan, 370 L'Enfant Promenade, SW, Washington, DC 20447.

Notification Under Executive Order 12372

This program is covered under E.O. 12372, ''Intergovernmental Review of Federal Programs'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' However, since units of local governments are not funded in Fiscal Year 2003, the review and comment provisions of the Executive Order and Part 100 do not apply for fiscal year 2003.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the application requirements contained in this notice have been approved by the Office of Management and Budget under control number 0348–0043.

FY 2003 TENTATIVE ALLOCATIONS FOR ELECTION ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES.—TABLE I

State	FY 2003 tentative allotments
Alabama	185,341
Alaska	100,000
American Samoa	100,000
Arizona	209,686
Arkansas	109,029
California	1,371,756
Colorado	178,308
Connecticut	142,841
Delaware	100,000
District of Columbia	100,000
Florida	687,278
Georgia	335,237
Guam	100,000
Hawaii	100,000
Idaho	100,000
Illinois	511,102
Indiana	251,048
Iowa	122,161
Kansas	110,057
Kentucky	169,755
Louisiana	181,021
Maine	100,000
Maryland	219,527
Massachusetts	270,154
Michigan	409,083
Minnesota	202,382
Mississippi	115,296
Missouri	232,185
Montana	100,000
Nebraska	100,000
Nevada	100,000
New Hampshire	100,000
New Jersey	352,485
New Mexico	100,000
New York	795,936
North Carolina	339,029
North Dakota	100,000
Oregon	143,454
Pennsylvania	521,409

FY 2003 TENTATIVE ALLOCATIONS FOR ELECTION ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES.—TABLE I—Continued

State	FY 2003 tentative allotments
Puerto Rico	151,345
Rhode Island	100,000
South Carolina	167,271
South Dakota	100,000
Tennessee	240,958
Texas	833,749
Utah	100,000
Vermont	100,000
Virgin Islands	100,000
Virginia	297,522
Washington	244,039
West Virginia	100,000
Wisconsin	185,426
Wyoming	100,000
Total	13,000,000

Dated: May 14, 2003.

Patricia A. Morrissey,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 03–12699 Filed 5–20–03; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03N–0038]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Medical Device User Fee Cover Sheet; Form FDA 3601

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) 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 or electronic comments on the collection of information by June 20, 2003.

ADDRESSES: The Office of Management and Budget (OMB) is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be electronically mailed to *sshapiro@omb.eop.gov* or faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Stuart Shapiro, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Medical Device User Fee Cover Sheet; Form FDA 3601

The Federal Food, Drug, and Cosmetic Act, as amended by the Medical Device User Fee and Modernization Act of 2002 (MDUFMA) (Public Law 107–250), authorizes FDA to collect user fees for certain medical device applications. Under this authority, companies pay a fee for certain new medical device applications or supplements submitted to the agency for review. Because the submission of user fees concurrently with applications and supplements is required, the review of an application cannot begin until the fee is submitted. Form FDA 3601, the ''Medical Device User Fee Cover Sheet,'' is designed to provide the minimum necessary information to: (1) Determine whether a fee is required for review of an application, (2) determine the amount of the fee required, and (3) account for and track user fees. The form provides a cross-reference of the fees submitted for an application with the actual application by using a unique number tracking system. The information collected is used by FDA's Center for Devices and Radiological Health (CDRH) and Center for Biologics Evaluation and Research (CBER) to initiate the administrative screening of new medical device applications and supplemental applications.

Respondents to this collection of information are device manufacturers. Based on FDA's database system, there are an estimated 5,000 manufacturers of products subject to MDUFMA. However, not all manufacturers will have any submissions in a given year and some may have multiple submissions. The total number of annual responses is based on the number of submissions received by FDA in fiscal year 2002. CDRH estimates 5,000 annual responses that include the following: 50 premarket approval applications, 4,400 premarket notifications, 30 modular premarket applications, 1 product development protocol, 1 premarket report, 20 panel track supplements, 150 real-time supplements, and 348 180-day supplements. CBER estimates 50 annual responses that include the following: 2 premarket approval applications, 3 biologics license applications, 30 premarket notifications, 10 modular premarket applications, and 5 180-day supplements. The estimated hours per response are based on past FDA experience with the various submissions, and range from 5 to 30 minutes. The hours per response are based on the average of these estimates.

In the **Federal Register** of February 26, 2003 (68 FR 8907) FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Form	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
FDA 3601	5,000	1	5,000	.30	1,500

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 15, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–12717 Filed 5–20–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03N–0194]

Agency Information Collection Activities; Proposed Collection; Comment Request; Agreement for Shipment of Devices for Sterilization

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing information collection, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements relating to shipment of nonsterile devices that are to be sterilized elsewhere or are shipped to other establishments for further process labeling or repacking.

DATES: Submit written or electronic comments on the collection of information by July 21, 2003.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm*. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of the Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Agreement for Shipment of Devices for Sterilization—21 CFR 801.150(e) (OMB Control Number 0910–0131)—Extension

Under sections 501(c) and 502(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351(c) and 352(a)), nonsterile devices that are labeled as sterile but are in interstate transit to a facility to be sterilized are adulterated and misbranded. FDA regulations in § 801.150(e) (21 CFR 801.150(e)) establish a control mechanism by which firms may manufacture and label medical devices as sterile at one establishment and ship the devices in interstate commerce for sterilization at another establishment; a practice that facilitates the processing of devices and is economically necessary for some firms. Under § 801.150(e), manufacturers and sterilizers may sign an agreement containing the following: (1) Instructions for maintaining accountability of the number of units in each shipment; (2) acknowledgment that the devices that are nonsterile are being shipped for further processing; and (3) specifications for sterilization processing.

This agreement allows the manufacturer to ship misbranded products to be sterilized without initiating regulatory action and provides FDA with a means to protect consumers from use of nonsterile products. During routine plant inspections, FDA normally reviews agreements that must be kept for 2 years after final shipment or delivery of devices.

The respondents to this collection of information are device manufacturers and contact sterilizers.

FDA estimates the reporting burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

CFR Section	No. of Respondents	Annual Frequency per Response	Hours per Response	Total Hours	Total Hours
801.150(e)	90	20	1,800	4	7,200
Total					7,200

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA's estimate of the burden is based on actual data obtained from industry over the past 6 years where there are approximately 90 firms subject to this requirement.

No burden has been estimated for the recordkeeping requirement in 21 CFR 801.150(a)(2) because these records are maintained as a usual and customary part of normal business activities. Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary because they

would occur in the normal course of activities.

Dated: May 15, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–12718 Filed 5–20–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0452]

Agency Information Collection Activities; Announcement of OMB Approval; New Drugs and Biological Drug Products; Evidence Needed to Demonstrate Effectiveness of New Drugs When Human Efficacy Studies Are Not Ethical or Feasible

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''New Drugs and Biological Drug Products; Evidence Needed to Demonstrate Effectiveness of New Drugs When Human Efficacy Studies Are Not Ethical or Feasible'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 7, 2003 (68 FR 11119), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0423. The approval expires on May 31, 2006. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: May 15, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–12723 Filed 5–20–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0516]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Request for Samples and Protocols

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) 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: Fax or electronically mail written comments on the collection of information by June 20, 2003.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be electronically mailed to sshapiro@omb.eop.gov or faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Stuart Shapiro, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA 250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Request for Samples and Protocols—(OMB Control Number 0910–0206)—Extension

Under section 351 of the Public Health Service Act (the PHS Act) (42 U.S.C. 262), FDA has the responsibility to issue regulations that prescribe standards designed to ensure the safety, purity, and potency of biological products and to ensure that licenses for such products are only issued when a product meets the prescribed standards. Under § 610.2 (21 CFR 610.2), FDA may at any time require manufacturers of licensed biological products to submit to FDA samples of any lot along with the protocols showing the results of applicable tests before marketing the lot of the product. In addition to § 610.2, there are other regulations in part 660 (21 CFR part 660) that require the submission of samples and protocols for specific licensed biological products: §§ 660.6 (Antibody to Hepatitis B Surface Antigen), 660.36 (Reagent Red Blood Cells), and 660.46 (Hepatitis B Surface Antigen). Section 660.6(a) provides requirements for the frequency of submission of samples from each lot of Antibody to Hepatitis B Surface Antigen product, and § 660.6(b) provides the requirements for the submission of a protocol containing specific information along with each required sample. For § 660.6 products subject to official release by FDA, one sample from each filling of each lot is required to be submitted along with a protocol consisting of a summary of the history or manufacture of the product, including all results of each test for which test results are requested by the Center for Biologics Evaluation and Research (CBER). After official release is no longer required, one sample along with a protocol is required to be submitted at an interval of 90 days. In addition, samples, which must be accompanied by a protocol, may at any time be required to be submitted to FDA if continued evaluation is deemed necessary. Section 660.36(a) requires, after each routine establishment inspection by FDA, the submission of samples from a lot of final Reagent Red Blood Cell product along with a protocol containing specific information. Section 660.36(a)(2) requires a protocol contain information including, but not limited to, manufacturing records, test records, and test results. Section 660.36(b) requires a copy of the antigenic constitution matrix specifying the antigens present or absent to be submitted to FDA at the time of initial distribution of each lot. Section 660.46(a) provides requirements for the frequency of submission of samples from each lot of Hepatitis B Surface Antigen product, and § 660.46(b) provides the requirements for the submission of a protocol containing specific information along with each required sample. For § 660.46 products subject to official release by FDA, one sample from each filling of each lot is required to be submitted along with a protocol consisting of a summary of the history or manufacture of the product, including all results of each test for which test results are requested by CBER. After notification of official release is received, one sample along with a protocol is required to be submitted at an interval of 90 days. In addition, samples, which must be

accompanied by a protocol, may at any time be required to be submitted to FDA if continued evaluation is deemed necessary. Samples and protocols are required by FDA to help ensure the safety, purity, or potency of the product because of the potential lot-to-lot variability of a product produced from living organisms. In cases of certain biological products (e.g., Albumin, Plasma Protein Fraction, and specified biotechnology and specified synthetic biological products) that are known to have lot-to-lot consistency, official lot release is not normally required. However, submissions of samples and protocols of these products may still be required for surveillance, licensing, and export purposes, or in the event that FDA obtains information that the manufacturing process may not result in consistent quality of the product. The following burden estimate is for protocols required to be submitted with each sample. The collection of samples is not a collection of information under 5 CFR 1320.3(h)(2). Respondents to the collection of information under § 610.2 are manufacturers of any licensed biological product. Respondents to the collection of information under §§ 660.6(b), 660.36(a)(2) and (b), and 660.46(b) are manufacturers of the specific products referenced previously. The estimated number of respondents for each regulation is based on the annual number of manufacturers that submitted samples and protocols for biological products including submissions for lot release, surveillance, licensing, or export. There are an estimated 329 manufacturers of licensed biological products, however, based on information obtained from FDA's database system, approximately 83 manufacturers submitted samples and protocols in fiscal years 1999 and 2000, under the regulations cited previously. FDA estimates that approximately 76 manufacturers submitted protocols under § 610.2 and 7 manufacturers submitted protocols under the regulations for the specific products. The total annual responses are based on the annual average of FDA's final actions completed in fiscal years 1999 and 2000, which totaled 6,747, for the various submission requirements of samples and protocols for biological products. The rate of final actions is not expected to change significantly in the next few years. The hours per response are based on information provided by industry. The burden estimates provided by industry ranged from 1 to 5.5 hours. Under § 610.2, the hours per response are based on the average of these estimates and rounded to 3 hours. Under the remaining regulations, the hours per response are based on the higher end of the estimate (rounded to 5 or 6 hours) because more information is generally required to be submitted in the protocol than under § 610.2.

In the **Federal Register** of December 27, 2002 (67 FR 79127), FDA published a 60-day notice requesting public comment on the information collection provisions. FDA received one comment on the information collection in response to the 60-day notice.

The comment recommended that we should review the regulations under § 610.2(a) concerning lot release and consider modifications to reflect current manufacturing technology standards in light of industry's ability to control and test products to ensure identity, purity, and potency. The comment provided some suggestions to consider regarding the lot release requirements.

The comment's suggested regulatory revisions that pertain to provisions or matters that are outside the scope of the proposed information collection. Consequently, we decline to adopt the comment's recommendations.

FDA estimates the burden of this information collection as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
610.2	76	86.5	6,574	3	19,722
660.6(b)	4	28.5	114	5	570
660.36(a)(2) and (b)	1	1	1	6	6
660.46(b)	2	29	58	5	290
Total	83		6,747		20,588

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 15, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–12724 Filed 5–20–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03N–0135]

Agency Information Collection Activities; Announcement of OMB Approval; Guidance: Establishing and Maintaining a List of U.S. Dairy Product Manufacturers With Interest in Exporting to Chile

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Establishing and Maintaining a List of U.S. Dairy Product Manufacturers With Interest in Exporting to Chile'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 10, 2003 (68 FR 17655), the agency announced that the proposed information collection had been submitted to OMB for review and

clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0509. The approval expires on October 31, 2003. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: May 15, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–12725 Filed 5–20–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03N–0170]

Report on the Performance of Drug and Biologics Firms in Conducting Postmarketing Commitment Studies; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is required, under the Food and Drug Administration Modernization Act of 1997 (Modernization Act), to report annually in the **Federal Register** on the status of postmarketing study commitments made by sponsors of approved drug and biological products. This is the agency's first report on the status of the study commitments that sponsors have agreed to conduct and for which an annual status report on the study has been received by FDA.

FOR FURTHER INFORMATION CONTACT: Kim Colangelo, Center for Drug Evaluation and Research (HFD–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–3937; or Robert Yetter, Center for Biologics Evaluation and Research (HFM–25), 1400 Rockville Pike, Rockville, MD 20852, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Background

Section 130(a) of the Modernization Act (Public Law 105–115) amended the Federal Food, Drug, and Cosmetic Act (the act) by adding a new provision (section 506B of the act (21 U.S.C. 356b)) requiring reports of postmarketing studies for human drugs and biological products. Section 506B provides FDA with additional authority to monitor the progress of a postmarketing study commitment that an applicant has been required or has agreed to conduct by requiring the applicant to submit a report annually providing information on the status of the postmarketing study commitment. This report must also include reasons, if any, for failure to complete the commitment.

On December 1, 1999 (64 FR 67207), FDA published a proposed rule providing a framework for the content and format of the annual progress report. The proposed rule also clarified the scope of the reporting requirement and timing for submission of the annual progress reports. The final rule, published on October 30, 2000 (65 FR 64607), modified annual report requirements for new drug applications (NDAs) and abbreviated new drug applications (ANDAs) by establishing § 314.81(b)(2)(vii) (21 CFR 314.81(b)(2)(vii)). The rule also created a new annual reporting requirement for biologics license applications (BLAs) by establishing § 601.70 (21 CFR 601.70). These regulations became effective on April 26, 2001. The regulations apply only to human drugs, including biological drugs. They do not apply to animal drugs or to licensed biological products that also meet the definition of a medical device.

Sections 314.81(b)(2)(vii) and 601.70 apply to postmarketing commitments made on or before enactment of the Modernization Act (November 21, 1997) as well as those made after that date. Sections 314.81(b)(2)(vii) and 601.70 require applicants of approved drugs and biological products to submit annually a report on the status of each clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology study that is required by FDA (e.g., accelerated approval clinical benefit studies) or that they have committed to conduct either at the time of approval or after approval of their NDA, ANDA, BLA, or supplement. The status of other types of postmarketing commitments (e.g., those concerning chemistry, manufacturing, production controls, and studies conducted on an applicant's own initiative) are not required to be reported under §§ 314.81(b)(2)(vii) and 601.70 and are not addressed in this report. It should be noted, however, that applicants are required to report to FDA on these commitments made for NDAs and ANDAs under § 314.81(b)(2)(viii).

According to the regulations, once a postmarketing study commitment has been made, an applicant must report on the progress of the commitment on the anniversary of the product's approval until the postmarketing study commitment is completed or terminated and FDA determines that the postmarketing study commitment has been fulfilled or that the postmarketing study commitment is either no longer feasible or would no longer provide useful information. The annual progress report must include a description of the postmarketing study commitment, a schedule for completing the study commitment, and a characterization of the current status of the study commitment. The report must also provide an explanation of the postmarketing study commitment's status by describing briefly the postmarketing study commitment's progress. A postmarketing study commitment schedule is expected to include the actual or projected dates for: (1) Submission of the study protocol to FDA, (2) completion of patient accrual or initiation of an animal study, (3) completion of the study, and (4) submission of the final study report to FDA. The postmarketing study commitment status must be described in the annual report according to the following definitions:

- Pending: The study has not been initiated, but does not meet the criterion for delayed;
- Ongoing: The study is proceeding according to or ahead of the original schedule;
- Delayed: The study is behind the original schedule;
- Terminated: The study was ended before completion, but a final study report has not been submitted to FDA; or
- Submitted: The study has been completed or terminated, and a final study report has been submitted to FDA.

Databases containing information on postmarketing study commitments are maintained at the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER). Information in this report covers any postmarketing study commitment that was made, in writing, at the time of approval or after approval of an application or a supplement to an application, including those required (e.g., to demonstrate clinical benefit of a product following accelerated approval) and those agreed to with the applicant. Information summarized in this report includes: (1) The number of applicants with open (uncompleted) postmarketing commitments, (2) the number of open postmarketing commitments, (3) the status of open postmarketing commitments as reported in § 314.81(b)(2)(vii) or § 601.70 annual

reports, (4) the status of concluded postmarketing studies as determined by FDA, and (5) the number of open postmarketing commitments for which FDA did not receive an annual report.

Additional information about postmarketing study commitments made by sponsors to CDER and CBER are provided on FDA's Web site at *http://www.fda.gov/cder*. Like this notice, the site does not list postmarketing study commitments containing proprietary information. It is FDA policy not to post information on the Web site until it has been reviewed for accuracy. The information currently available on the site includes only postmarketing study commitments made since January 1, 1991. The numbers published in this notice cannot be compared with the numbers resulting from searches of the Web site. This notice incorporates totals for all postmarketing study commitments in FDA databases, including those made prior to 1991 as well as those undergoing review for accuracy. The report in this notice will be updated annually while the Web site will be updated quarterly (in April, July, October, and January).

II. Summary of Information From Postmarketing Study Progress Reports

This report summarizes the status of postmarketing commitments as of September 30, 2002. If a commitment did not have a schedule and a postmarketing progress report was not received, the commitment is categorized according to the most recent information available to the agency.

Data in table 1 are numerical summaries generated from FDA databases. The data are broken out according to application type (NDAs/ANDAs or BLAs).

TABLE 1.—SUMMARY OF POSTMARKETING STUDY COMMITMENTS TO CBER AND CDER

(NUMBERS AS OF SEPTEMBER 30, 2002)

	NDAs/ANDAs (% of total)	BLAs (% of total)
Applicants with open postmarketing commitments	126	44
Number of open postmarketing commitments	1,339	223
Status of open postmarketing commitments		
• Pending	820 (61%)	67 (30%)
• Ongoing	285 (21%)	102 (46%)
• Delayed	25 (2%)	17 (8%)
• Terminated	8 (1%)	2 (1%)
• Submitted	201 (15%)	35 (16%)
Concluded studies	349	52
• Commitment met	240 (69%)	47 (90%)
• Commitment not met	0 (0%)	1 (2%)
• Study no longer needed or feasible	109 (31%)	4 (8%)
Open postmarketing commitments with annual report due but not received	289 (22%)	77 (35%)

Dated: May 12, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–12720 Filed 5–20–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HRSA–03–87 Notice of Cooperative Agreement to Plan, Develop, Implement, and Operate a Continuing Clinical Education Program in the Pacific Basin (CPAC) CFDA Number 93.884

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for a Cooperative Agreement for fiscal year (FY) 2003 to Plan, Develop, Implement, and Operate a Continuing Clinical Education Program in the Pacific Basin.

The purpose of this Cooperative Agreement is to plan, develop, implement and operate a continuing clinical education (CCE) program in the U.S-Associated Pacific Islands. Six island jurisdictions comprise the U.S.-Associated Pacific Basin: American Samoa, the Commonwealth of the North Mariana Islands, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau. A cooperative agreement will be awarded to assist the eligible entity to develop, implement and operate a CCE program in the U.S.-Associated Pacific Basin. The goal is to meet the needs of the health care workforce in all six island jurisdictions by providing training to a full range of primary care and allied health providers emphasizing cultural competency and distance learning; developing a needs assessment to identify the specific educational needs and develop curricula and recruit faculty; demonstrate linkages and relationships within all six island jurisdictions; and establish an advisory board with all six island jurisdictions represented.

The Pacific Basin health care workforce is comprised of Pacific Basin Medical Officers and other primary care providers (family physicians, general internists, general pediatricians, dental professionals, physician assistants, nurses, health assistants, and allied health workers). Allied Health professionals include health professionals who have received a certificate, an associate's degree, a

bachelor's degree, a master's degree, a doctoral degree, or post baccalaureate training, in a science relating to health care. Allied health professionals may include, but are not limited to, speech pathologists, physical therapists, physical therapy assistants, nutritionists, dental hygienists, dental assistants, medical technologists, cytotechnologists, laboratory assistants, medical informaticians, respiratory therapists, occupational therapists, ultrasound technicians, sonographists, nuclear medicine technicians, radiography technicians, clinical psychologists, social workers, and counselors. Although these primary care and allied health care providers may have the same title as primary care and allied health care providers in the United States, their skill levels and the roles they perform can be quite different from their U.S. counterparts. This Cooperative Agreement program will support a wide range of objectives to meet the needs of the primary care and allied health care providers in the Pacific Basin.

Eligible entities are required to use funds in collaboration with two or more disciplines Activities conducted under this cooperative should include: (a) The recruitment of representatives from all six jurisdictions that will comprise an Advisory Committee responsible for providing appropriate input to all key aspects of the project and to facilitate conducting the clinical education courses; (b) a needs assessment for all six jurisdictions in the Pacific Basin to identify their specific educational needs; (c) the recruitment of faculty and the development of curricula that will meet the needs of all six jurisdictions; (d) the development, implementation and operation of on-site and distance learning continuing clinical education programs for the primary care and allied health care providers in all six jurisdictions of the Pacific Basin; and (d) cultural competency training that emphasizes sensitivity to cultural differences, socioeconomic factors and geographic issues that impact the population in the Pacific Basin.

Authorizing Legislation

This Cooperative Agreement is solicited under the following authority of Title VII of the Public Health Service (PHS) Act, Sections 747 and 755. Section 747, as amended, that authorizes grants to plan, develop and operate, or participate in an approved professional training program (including an approved residency or internship program) in the field of family medicine, internal medicine, or pediatrics for medical (M.D. and D.O.) students, interns (including interns in internships in osteopathic medicine), residents, or practicing physicians that emphasizes training for the practice of family medicine, general internal medicine, or general pediatrics. Section 755, as amended, authorizes grants to assist allied health programs in meeting the costs associated with expanding or establishing programs that will increase the number of individuals trained in allied health professions, which may include those that provide career advancement training for practicing allied health professionals.

Federal Involvement

The Federal role in the conduct of this cooperative agreement is substantial and will be maintained by HRSA's Bureau of Health Professions (BHPr), Division of Medicine and Dentistry (DMD) staff through technical assistance and guidance to the grantee beyond the normal stewardship responsibilities in the administration of grant awards. The Federal Government will provide technical assistance and advice with respect to the following activities:

1. Planning, development, administration, and evaluation of all phases of the program, including all curricula developed for the program, the content and staffing of faculty training, and the review of the evaluation plan for the project initiated at its inception;

2. Reviewing and approving the plans at the end of the curriculum development phase of the project to assure appropriate direction and redirection of activities, if necessary;

3. Participation in all appropriate meetings, committees, conference calls, and working groups related to the Cooperative Agreement and its projects;

4. Reviewing and approving the curricula vitae documenting the credentials and experience for selection to the Advisory Committee and proposed members; and

5. Reviewing and approving the curriculum development phase to the implementation phase of this work.

Availability of Funds

Up to $400,000 will be available in FY 2003 to fund one award made under this Cooperative Agreement. It is expected that funding will be continued to complete a 4-year total project period. It is expected that awards will be made on or before September 1, 2003. Continuation awards beyond the first year of the project period will be based on the achievement of satisfactory progress and the availability of funds.

Background

HRSA's mission is to improve the Nation's health by assuring equitable access to comprehensive, quality health care for all. In addressing this goal, HRSA's Bureau of Health Professions has responsibility for the education of health professionals.

The Institute of Medicine (IOM) was commissioned by HRSA in the late 1990s to examine the health needs of the populations in the U.S.-Associated Pacific Islands. The IOM made recommendations for improvement of jurisdictional health needs in their report, ''Pacific Partnerships for Health: Charting a Course for the 21st Century,'' January 1998. The four key recommendations were (1) adopt and support a viable system of community-based primary and preventive health care; (2) improve coordination within and between the jurisdictions and the U.S.; (3) increase community involvement and investment in health care; and (4) promote the education and training of the health care workforce.

One of the main focuses for BHPr is to promote continuing clinical education for primary care and allied health care providers. This is consistent with IOM recommendation number four. The goal is to maintain and improve the clinical capacity of primary care and allied health care providers in the Pacific Basin, especially for the Medical Officers trained in the HRSA-supported Pacific Basin Medical Officer Training Program (whose operations terminated on December 31, 1996). BHPr's focus will help improve the health status of Pacific Basin residents and support a viable system of community-based primary care. Furthermore, this will improve the overall system of primary, preventive, and allied health care in the Pacific Basin and lead to overall sustainability of program efforts.

Applicants to this Cooperative Agreement must focus on planning, developing, implementing and operating a continuing clinical education program that will meet the specific needs of all six jurisdictions in the Pacific Basin.

Eligible Applicants

Eligible applicants are public or nonprofit private hospitals, accredited schools of medicine or osteopathic medicine, health professions schools, academic health centers, State or local governments, or public or private nonprofit entities, including faith-based and community-based organizations. Eligible entities are required to use

funds in collaboration with two or more disciplines.

Funding Preference

A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of applications. As provided in section 791(a) of the PHS Act, a preference will be given to any qualified applicant that meets the criteria for a ''new program'' under this Cooperative Agreement.

For the purposes of this Cooperative Agreement, all proposed CCE programs are eligible to be considered as new programs; however, applicants cannot automatically receive the preference. Preference will be given to those proposed CCE programs that request the preference and that meet at least four of the following criteria:

(1) The mission statement of the program identifies a specific purpose of this program as being the preparation of health professionals to serve underserved populations;

(2) The curriculum of the program includes content which will help to prepare practitioners to serve underserved populations;

(3) Substantial clinical training experience is required under the program in medically underserved communities;

(4) A minimum of 20% of the clinical faculty of the program spend at least 50% of their time providing or supervising care in medically underserved communities;

(5) The entire program or a substantial portion of the program is physically located in a medically underserved community;

(6) Student assistance, which is linked to service in medically underserved communities following graduation, is available to the students in the program; and

(7) The program provides a placement mechanism for deploying graduates to medically underserved communities.

This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

The term ''medically underserved community (MUC)'' means an urban or rural area or population that:

(a) Is eligible for designation under section 332 as a Health Professional Shortage Area (HPSA);

(b) Is eligible to be served by a Migrant Health Center under section 330 of the PHS Act, a Community Health Center under section 330 of the Act, a grantee under section 330 of the Act (relating to homeless individuals), or a grantee under section 330 of the Act (relating to residents of public housing);

(c) Is eligible for certification under section 1861(aa)(2) of the Social Security Act (relating to rural health clinics); or

(d) Is designated by a State Governor (in consultation with the medical community) as a shortage area or MUC. (Section 799B(6) of the PHS Act.).

Allied Health Funding Priority

A ''funding priority'' is defined as the favorable adjustment of aggregate review scores of individually approved applications. A funding priority will be given to approved applicants who devote resources to educate and train allied health professionals in areas experiencing shortages in the disciplines of medical technology and cytotechnology.

To qualify for the priority, the applicant should satisfactorily demonstrate that this Cooperative Agreement includes the training of allied health professionals in areas experiencing shortages in the disciplines of medical technology and cytotechnology.

Applicants meeting the funding priority will receive an additional 5 points. Peer reviewers will determine which applications receive the funding priority.

Special Considerations

A special consideration is the enhancement of priority scores by individual merit reviewers of approved applications, because the application addresses special areas of concern.

Title VII, section 747(c)(3) provides for a statutory special consideration to be given to projects that prepare practitioners to care for underserved populations and other high risk groups such as the elderly, individuals with HIV/AIDS, substance abusers, homeless and victims of domestic violence.

An administrative special consideration will be given to projects that propose approaches for enhancing current and/or developing new educational opportunities using distance learning methodologies, with the goal of improving access to primary health care for medically and/or dentally underserved communities and/or underserved populations or other high risk groups. The proposed project should focus on educational opportunities for trainees and not on providing clinical services.

Statutory Matching or Cost Sharing Requirement

None.

Review Criteria

The specific review criteria used to review and rank applications are included in the application guidance that will be provided to each potential applicant. Peer reviewers will evaluate applications based on: (1) The quality of the applicants' proposed geographic needs assessment, including addressing the needs of underserved populations and other high risk groups and the incorporation of distance learning methodologies; (2) the quality of the proposed curriculum, including evaluation of curriculum specific to geriatrics, oral health, and diabetes; (3) the applicants' overall management capabilities, including its ability to demonstrate strong partnerships with the U.S.-Associated Pacific Island jurisdictions and its knowledge of ongoing HRSA-funded activities in the Pacific Islands; and (4) the quality of the proposed outcome measures and dissemination strategies, including qualitative and quantitative evaluation plans and the project's impact at multiple levels (local, national, and international). Applicants should pay strict attention to addressing these criteria, as they are the basis upon which applications will be judged by the reviewers.

The following generic review criteria are also applicable to this Cooperative Agreement:

(a) That the estimated cost to the Government of the project is reasonable considering the level and complexity of activity and the anticipated results.

(b) That project personnel are well qualified by training and/or experience for the support sought, that project personnel understand the cultural differences, socioeconomic factors, and geographic issues that impact the population in the Pacific Basin, and that the applicant organization or the organization to provide training has adequate facilities and manpower.

(c) That insofar as practical, the proposed activities, if well executed, are capable of attaining project objectives.

(d) That the project objectives are capable of achieving the specific program objectives defined in the program announcement and the proposed results are measurable.

(e) That the method for evaluating proposed results includes criteria for determining the extent to which the program has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the program.

(f) That, insofar as practical, the proposed activities, when accomplished, are replicable, national

in scope, and include plans for broad dissemination.

Application Requests, Dates and Address

The **Federal Register** notice and the application form for this Cooperative Agreement are available on the HRSA Web site address at *http://bhpr.hrsa.gov/grants.* Applicants may also request a hard copy of these materials from the Division of Grants Management Operations (CPAC), HRSA Grants Application Center (GAC), 901 Russell Avenue, Suite 450, Gaithersburg, MD 20879, telephone number 1–877–477–2123 or 1–877–HRSA–123. The GAC e-mail address is *HRSAGAC@hrsa.gov.* If mailing the application, send the original and two copies of the application to GAC.

Applicants should note that HRSA anticipates accepting grant applications online in the last quarter of the Fiscal Year (July through September). Please refer to the HRSA grants schedule at *http://www.hrsa.gov/grants.htm* for more information.

Applications for this Cooperative Agreement must be postmarked or submitted by the due date June 30, 2003. Applications postmarked after this due date or sent to any address other than the Gaithersburg, MD address will be returned to the applicant and not reviewed.

National Health Objectives for the Year 2010

The PHS urges applicants to submit their work plans that address specific Federal workforce objectives. These objectives are stated in the DHHS publication Healthy People 2010, dated January 2000. The Internet address for this document is: *http://www.health.gov/healthypeople/,* or you may call 1–800–367–4725 for information. Particular attention should focus on Healthy People 2010 such as Objective 21 (oral health); and Objective 23–8 (incorporating specific competencies in the public health workforce).

Smoke-Free Workplace

The PHS strongly encourages all grant recipients to provide a smoke-free workplace; to promote the non-use of all tobacco products; and to promote Public Law 103–227, the Pro-Children Act of 1994, which prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Additional Information

Questions concerning programmatic aspects of this Cooperative Agreement may be directed to Ellie Grant, Program Specialist, Primary Care Medical Education Branch, Division of Medicine and Dentistry, Bureau of Health Professions, HRSA. Ms. Grant's e-mail is *egrant@hrsa.gov* and her telephone number is 301–443–5404.

Paperwork Reduction Act

The standard application form HRSA–6025–1, the HRSA Competing Training Grant Application, has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0915–0060. If the methods for developing the proposed comprehensive outcome evaluation of all efforts delivered through this Cooperative Agreement (as described in the Background section of this notice) fall under the purview of the Paperwork Reduction Act, awardees will assist HRSA in seeking OMB clearance for proposed data collection activities.

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: April 23, 2003.

Elizabeth M. Duke,

Administrator.

[FR Doc. 03–12774 Filed 5–20–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (''the Program''), as required by section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact the Clerk, United States Court of Federal Claims, 717 Madison Place, NW., Washington, DC 20005, (202) 219–9657. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 16C–17, Rockville, MD 20857; (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at section 2114 of the PHS Act or as set forth at 42 CFR 100.3, as applicable. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a list of petitions received by HRSA on October 1, 2002, through December 31, 2002.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the

evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

(a) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Table but which was caused by'' one of the vaccines referred to in the Table, or

(b) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading ''For Further Information Contact''), with a copy to HRSA addressed to Director, Division of Vaccine Injury Compensation Program, Office of Special Programs, 5600 Fishers Lane, Room 16C–17, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Lisa and Maximo Salinas on behalf of Eric Alfred Salinas, Richmond, Virginia, Court of Federal Claims Number 02–1286V
2. Kimberly and Jason Murray on behalf of Emily Renee Murray, Richmond, Virginia, Court of Federal Claims Number 02–1287V
3. Chauncey and Robert Ford on behalf of Logan Davis Ford, Richmond, Virginia, Court of Federal Claims Number 02–1288V
4. Margie and John Eyman on behalf of Ian Carter Eyman, Richmond, Virginia, Court of Federal Claims Number 02–1289V
5. Virginia and Daniel Dougherty on behalf of Austin Daniel Dougherty, Richmond, Virginia, Court of Federal Claims Number 02–1290V
6. Amy and Dennis Colannino on behalf of Adam Michael Colannino, Richmond, Virginia, Court of Federal Claims Number 02–1291V
7. Dee and Dino Ferra on behalf of Ryan Ferra, Hackensack, New Jersey, Court of Federal Claims Number 02–1292V
8. Wendy and Eric Dietsche on behalf of Katelyn Dietsche, Chattanooga, Tennessee, Court of Federal Claims Number 02–1293V
9. Amy and Ryan Reed on behalf of Arik Reed, Portland, Oregon, Court of Federal Claims Number 02–1295V
10. Amy and Ryan Reed on behalf of Kadin Reed, Portland, Oregon, Court of Federal Claims Number 02–1296V
11. Doris Brown on behalf of Nathayn Brown, Portland, Oregon, Court of Federal Claims Number 02–1297V
12. Judy Nichols on behalf of Jack Nichols, Portland, Oregon, Court of Federal Claims Number 02–1298V
13. R. Charles Ellis on behalf of Frederick W. Ellis, Portland, Oregon, Court of Federal Claims Number 02–1299V
14. Dana and Craig Knapp on behalf of Andrew Knapp, Portland, Oregon, Court of Federal Claims Number 02–1300V
15. Susan Fortino on behalf of Brandon Fortino, Portland, Oregon, Court of Federal Claims Number 02–1301V
16. Michelle and Bruce McPherran on behalf of Stuart McPherran, Portland, Oregon, Court of Federal Claims Number 02–1302V
17. Michelle and Bruce McPherran on behalf of Kaylen McPherran, Portland, Oregon, Court of Federal Claims Number 02–1303V
18. Kelly Church on behalf of Jordan Church, Portland, Oregon, Court of Federal Claims Number 02–1304V
19. Kristian Kabasares on behalf of Chad Kabasares, Portland, Oregon, Court of Federal Claims Number 02–1305V
20. Shelley and Lori Winn on behalf of Justin Winn, Portland, Oregon, Court of Federal Claims Number 02–1306V
21. Jodie Lynn Lovern on behalf of Alexander Lovern, Portland, Oregon, Court of Federal Claims Number 02–1307V
22. Lisa Baumann on behalf of Brett Baumann, Portland, Oregon, Court of Federal Claims Number 02–1308V
23. Shelley Segal on behalf of Joshua Segal, Terre Haute, Indiana, Court of Federal Claims Number 02–1309V
24. Jacqueline and Orlando Hislop on behalf of Catalina E. Hislop, Melbourne, Florida, Court of Federal Claims Number 02–1310V
25. Keri and Brian Elwell on behalf of Kaylie J. Elwell, Melbourne, Florida, Court of Federal Claims Number 02–1311V
26. Beth Pearce and Wayne Bosch on behalf of Victoria C. Bosch, Melbourne, Florida, Court of Federal Claims Number 02–1312V
27. Cheryl and Jerald Difiglio on behalf of Anthony J. Difiglio, Melbourne, Florida, Court of Federal Claims Number 02–1313V
28. Donna and Bruce Anderson on behalf of Ryan Anderson, Melbourne, Florida, Court of Federal Claims Number 02–1314V
29. Martha Lin and Ned Benfield on behalf of Elia C. Benfield, Melbourne, Florida, Court of Federal Claims Number 02–1315V
30. Carol Lazar, Los Angeles, California, Court of Federal Claims Number 02–1316V
31. Michael Kerr on behalf of Eric Kerr, Boston, Massachusetts, Court of Federal Claims Number 02–1318V
32. Donna Feld on behalf of Joshua Feld, Boston, Massachusetts, Court of Federal Claims Number 02–1319V
33. Donna Feld on behalf of Joseph Feld, Boston, Massachusetts, Court of Federal Claims Number 02–1320V
34. Carolyn Beyers on behalf of Cameron Beyers, Boston, Massachusetts, Court of Federal Claims Number 02–1321V
35. Stacy Alvarez on behalf of Ariana Alvarez, Boston, Massachusetts, Court of Federal Claims Number 02–1322V
36. Stacy Alvarez on behalf of Hunter Alvarez, Boston, Massachusetts, Court of Federal Claims Number 02–1323V
37. Mary Etebari on behalf of Brandon Etebari, Boston, Massachusetts, Court of Federal Claims Number 02–1324V
38. Alexandra Givens and J. Mortimer O'Sullivan on behalf of Reed Gilmore O'Sullivan, New York, New York, Court of Federal Claims Number 02–1325V
39. Melissa and Richard Webber on behalf of Lawrence B. Webber, Melbourne, Florida, Court of Federal Claims Number 02–1329V
40. Fatmeh and Ahmad Shihadeh on behalf of Sammy Shihadeh, Melbourne, Florida, Court of Federal Claims Number 02–1330V
41. Jacqueline and David Mancini on behalf of Adriana Mancini, Melbourne, Florida, Court of Federal Claims Number 02–1331V
42. Maureen and Kenneth Wilkerson on behalf of Carter Wilkerson, Melbourne, Florida, Court of Federal Claims Number 02–1332V
43. Maureen and Kenneth Wilkerson on behalf of Connor Wilkerson, Melbourne, Florida, Court of Federal Claims Number 02–1333V
44. William McAllister on behalf of David Edward McAllister, Richmond, Virginia, Court of Federal Claims Number 02–1334V
45. Georgia and Keith Meuller on behalf of Keith C. Meuller, Houston, Texas, Court of Federal Claims Number 02–1336V
46. Mary and Kent Brauninger on behalf of Max Brauninger, Houston, Texas, Court of Federal Claims Number 02–1337V
47. Jeanne and Edward Happel on behalf of Keith Happel, Vienna, Virginia, Court of Federal Claims Number 02–1338V
48. Lisa Ventimiglia on behalf of Natalie Ventimiglia, Vienna, Virginia, Court of Federal Claims Number 02–1339V
49. Lisa Ventimiglia on behalf of Dominic Ventimiglia, Vienna, Virginia, Court of Federal Claims Number 02–1340V
50. Wendy Beasley on behalf of Connor Beasley, Vienna, Virginia, Court of Federal Claims Number 02–1341V
51. Beverly Willis on behalf of Benjamin Willis, Vienna, Virginia, Court of Federal Claims Number 02–1342V
52. Howard Sobelman on behalf of Tyler Sobelman, Vienna, Virginia, Court of Federal Claims Number 02–1343V
53. Cynthia Johnson, Vienna, Virginia, Court of Federal Claims Number 02–1344V
54. Anita Greene, Raleigh, North Carolina, Court of Federal Claims Number 02–1348V
55. Jacquelyn and Christopher Brooks on behalf of Christopher Jonathyn Brooks, Los Angeles, California, Court of Federal Claims Number 02–1352V
56. Jeanette Early on behalf of Jameliah Chantel Early, Torrance, California, Court of Federal Claims Number 02–1353V
57. Kerry and Steven Cooper on behalf of Aidan Scott Cooper, Richmond, Virginia, Court of Federal Claims Number 02–1354V

58. Keisha and Jacob Grillo on behalf of Malachi Daniel Grillo, Rolla, Missouri, Court of Federal Claims Number 02–1355V
59. Cheryl and Mark Sprado on behalf of Jason Tyler Sprado, Orlando, Florida, Court of Federal Claims Number 02–1356V
60. Cynthia and Eddie Stanley on behalf of Armand Porche-Tyrell Stanley, Lancaster, Pennsylvania, Court of Federal Claims Number 02–1357V
61. Jacqueline and Bryant Yearby on behalf of Omari Bryant Yearby, North Babylon, New York, Court of Federal Claims Number 02–1358V
62. Cynthia and Ramido Ramirez on behalf of Destiny Alexis Ramirez, Casa Grande, Arizona, Court of Federal Claims Number 02–1359V
63. Gloria and Michael Ponosuk on behalf of Alyssa Jade Ponosuk, Hackensack, New Jersey, Court of Federal Claims Number 02–1360V
64. Courtney Shorter on behalf of Christopher Barnett, Miami, Florida, Court of Federal Claims Number 02–1361V
65. Lisa and Stephen Finn on behalf of Sean P. Finn, Melbourne, Florida, Court of Federal Claims Number 02–1362V
66. Toya and Barry Cunningham on behalf of Barry Cunningham, Jr., Charleston, South Carolina, Court of Federal Claims Number 02–1365V
67. Kristen and Timothy Fisher on behalf of Katherine Linsey Fisher, Dallas, Texas, Court of Federal Claims Number 02–1366V
68. Stacie and Jeffrey Brown on behalf of Jonathan Christian Brown, Oakland, California, Court of Federal Claims Number 02–1369V
69. Michelle and Kenneth Bowe on behalf of Brandon Bowe, Smithtown, New York, Court of Federal Claims Number 02–1370V
70. Elizabeth and Reginald Sharp on behalf of Christopher James Peter Sharp, Scottsdale, Arizona, Court of Federal Claims Number 02–1371V
71. Kara and Kelly Drake on behalf of Dalton Richard Drake, Elmore, Minnesota, Court of Federal Claims Number 02–1372V
72. Janetta and Ronald Miller on behalf of Anthony Dean Miller, Inglewood, California, Court of Federal Claims Number 02–1373V
73. Tammy and Ronnie Jones on behalf of Brandon Isaiah Jones, Dothan, Alabama, Court of Federal Claims Number 02–1374V
74. Kelly Barnhill on behalf of Fletcher Barnhill, Boston, Massachusetts, Court of Federal Claims Number 02–1375V
75. Joann Mrozinsky on behalf of Fletcher Barnhill and Ryan Dead, Boston, Massachusetts, Court of Federal Claims Number 02–1376V
76. Sonia and Chuck Young on behalf of Emelie S. Young, Melbourne, Florida, Court of Federal Claims Number 02–1377V
77. Rhonda and Robert Lofland on behalf of Barrett Lofland, Great Neck, New York, Court of Federal Claims Number 02–1378V
78. Kimberly K. Dennie on behalf of Calvin M. Dennie, Indianapolis, Indiana, Court of Federal Claims Number 02–1379V
79. LaKesha Mitchell on behalf of Taivis Byron Mitchell, Portland, Oregon, Court of Federal Claims Number 02–1380V
80. Londa and Jerry Corcoran on behalf of Jacob Corcoran, Portland, Oregon, Court of Federal Claims Number 02–1381V
81. Brian Peterson on behalf of Jack Peterson, Portland, Oregon, Court of Federal Claims Number 02–1382V
82. Domenick Venditti on behalf of Jake Venditti, Vienna, Virginia, Court of Federal Claims Number 02–1384V
83. Carol Nigro on behalf of Matthew Nigro, Vienna, Virginia, Court of Federal Claims Number 02–1385V
84. Celeste Demarsico on behalf of Isaak Demarsico, Vienna, Virginia, Court of Federal Claims Number 02–1386V
85. Susan Andrews on behalf of Joseph Andrews, Vienna, Virginia, Court of Federal Claims Number 02–1387V
86. Faith Ingersoll on behalf of Kyle Ingersoll, Vienna, Virginia, Court of Federal Claims Number 02–1388V
87. Kristi Pool on behalf of Abigail Pool, Vienna, Virginia, Court of Federal Claims Number 02–1389V
88. Sid Armer, Vienna, Virginia, Court of Federal Claims Number 02–1390V
89. Lisa Duff-Dugan, Fort Wayne, Indiana, Court of Federal Claims Number 02–1391V
90. Pam and Randy Coyne on behalf of Carson Coyne, Jackson, Tennessee, Court of Federal Claims Number 02–1392V
91. Jennifer and James Clawson on behalf of Sarah Danielle Clawson, Salisbury, North Carolina, Court of Federal Claims Number 02–1397V
92. Lori and Christian McIlwain on behalf of Connor Joseph McIlwain, Salisbury, North Carolina, Court of Federal Claims Number 02–1398V
93. Allison and Daniel Weeks on behalf of Hayden F. Weeks, Salisbury, North Carolina, Court of Federal Claims Number 02–1399V
94. Paula and Michael Rader on behalf of Nicolas Austin Rader, Salisbury, North Carolina, Court of Federal Claims Number 02–1400V
95. Deborah and Brian Flagg on behalf of Devin P. Flagg, Salisbury, North Carolina, Court of Federal Claims Number 02–1401V
96. Cynthia and Johnny Lambert on behalf of Johnny W. Lambert, Salisbury, North Carolina, Court of Federal Claims Number 02–1402V
97. Cynthia and Michael Stirk on behalf of Michael Hunter Stirk, Salisbury, North Carolina, Court of Federal Claims Number 02–1403V
98. Natasha Switkovitz on behalf of Marcellous Shemar Shuttles, Grand Rapids, Michigan, Court of Federal Claims Number 02–1404V
99. Lisa and Christopher Miller on behalf of Christopher Chase Miller, Philadelphia, Pennsylvania, Court of Federal Claims Number 02–1405V
100. Elizabeth and Thomas Steenbergen on behalf of Samuel Steenbergen, Great Neck, New York, Court of Federal Claims Number 02–1407V
101. Jose Brito and Lourdes Rivero-Brito on behalf of Ariel J. Brito, Melbourne, Florida, Court of Federal Claims Number 02–1408V
102. Anita and Paul Dost on behalf of Lauren Paige Dost, Salisbury, North Carolina, Court of Federal Claims Number 02–1409V
103. Fonda and D. Scott DuPre on behalf of Joseph Scott DuPre, Salisbury, North Carolina, Court of Federal Claims Number 02–1410V
104. Melissa and Carl Oliver on behalf of Kenny Wayne Oliver, Salisbury, North Carolina, Court of Federal Claims Number 02–1411V
105. Melissa and Carl Oliver on behalf of Amanda Diane Oliver, Salisbury, North Carolina, Court of Federal Claims Number 02–1412V
106. Annette and Dennis Alexander on behalf of Lauren D. Alexander, Salisbury, North Carolina, Court of Federal Claims Number 02–1413V
107. Elizabeth Steenbergen on behalf of Samuel T. Steenbergen, Miami, Florida, Court of Federal Claims Number 02–1414V
108. Cherie Gates on behalf of Riyo Gates, Miami, Florida, Court of Federal Claims Number 02–1415V
109. Rayshawn Lockhart on behalf of Noah Lockhart, Miami, Florida, Court of Federal Claims Number 02–1416V
110. Cheryl Lee Stanescu on behalf of Nicholad Stanescu, Miami, Florida, Court of Federal Claims Number 02–1417V
111. Cheryl Lee Stanescu on behalf of Gabrielle Stanescu, Miami, Florida, Court of Federal Claims Number 02–1418V
112. Dawn and Jerril Fant on behalf of Lynze Fant, Memphis, Tennessee, Court of Federal Claims Number 02–1419V
113. Harry Gibson on behalf of Christian Vilchis, Vienna, Virginia, Court of Federal Claims Number 02–1421V
114. Cindy Whitby on behalf of Ronnie Whitby, Vienna, Virginia, Court of Federal Claims Number 02–1422V
115. Tonya Taylor on behalf of Noah Taylor-Ortiz, Vienna, Virginia, Court of Federal Claims Number 02–1423V
116. Amanda Meyers on behalf of Abigail Meyers, Vienna, Virginia, Court of Federal Claims Number 02–1424V
117. Ruth Davis on behalf of Akiva Davis, Vienna, Virginia, Court of Federal Claims Number 02–1425V
118. James Ramey on behalf of Johnathan Ramey, Vienna, Virginia, Court of Federal Claims Number 02–1426V
119. Margaret Merenda on behalf of Anthony Merenda, Vienna, Virginia, Court of Federal Claims Number 02–1427V
120. Lisa Lewis on behalf of Ethan B. Lewis, Vienna, Virginia, Court of Federal Claims Number 02–1428V
121. Barbara Pontius on behalf of William D. Pontius, Vienna, Virginia, Court of Federal Claims Number 02–1429V
122. Barry Gore on behalf of Chayley Allison Gore, Vienna, Virginia, Court of Federal Claims Number 02–1430V
123. Nancy and Steven Gard on behalf of Maverick Gard, Vienna, Virginia, Court of Federal Claims Number 02–1431V
124. Linda Flower on behalf of Robert L. Elder, Vienna, Virginia, Court of Federal Claims Number 02–1432V
125. Sara and Matt Bytk on behalf of Michael Bytk, Vienna, Virginia, Court of Federal Claims Number 02–1433V
126. Cindy Alexander on behalf of Alton Alexander, Vienna, Virginia, Court of Federal Claims Number 02–1434V

127. Joseph Landy on behalf of Tyler Landy, Vienna, Virginia, Court of Federal Claims Number 02–1435V
128. Glenda Faye Mathes, Pella, Iowa, Court of Federal Claims Number 02–1436V
129. Dawn and Tony Turner on behalf of Austin Brady Turner, Dallas, Texas, Court of Federal Claims Number 02–1437V
130. Kathleen Caldwell on behalf of Scott Caldwell, Boston, Massachusetts, Court of Federal Claims Number 02–1438V
131. Marylou Plummer on behalf of Christopher Plummer, Boston, Massachusetts, Court of Federal Claims Number 02–1439V
132. Rebecca Carlson on behalf of Ethan Carlson, Boston, Massachusetts, Court of Federal Claims Number 02–1440V
133. Joshua Carter, Boston, Massachusetts, Court of Federal Claims Number 02–1441V
134. Amy Jones on behalf of Meghan Elizabeth Jones, Twin Falls, Idaho, Court of Federal Claims Number 02–1445V
135. Piedad Sanchez on behalf of Carlos Narjes, Orlando, Florida, Court of Federal Claims Number 02–1446V
136. Charlotte Cook on behalf of Kylah C. Cook, Alexandria, Virginia, Court of Federal Claims Number 02–1448V
137. Martha Bridges on behalf of Victoria Bridges, Alexandria, Virginia, Court of Federal Claims Number 02–1449V
138. Randy and Matthew Hutton on behalf of Billie K. Hutton, Alexandria, Virginia, Court of Federal Claims Number 02–1450V
139. Corkie and William Cline on behalf of Jared Cline, Alexandria, Virginia, Court of Federal Claims Number 02–1451V
140. Allison and David Bell on behalf of Aiden Bell, Salt Lake City, Utah, Court of Federal Claims Number 02–1452V
141. Jennifer and Gabriel Venuto on behalf of Tommy Venuto, Philadelphia, Pennsylvania, Court of Federal Claims Number 02–1453V
142. Linda and Robert Malecky on behalf of Margaret Malecky, Lansdale, Pennsylvania, Court of Federal Claims Number 02–1461V
143. Cynthia Sauer on behalf of Christopher Sauer, Vienna, Virginia, Court of Federal Claims Number 02–1464V
144. Willa Tyler on behalf of Jonathan Tyler, Vienna, Virginia, Court of Federal Claims Number 02–1465V
145. Terry and Jon Poling on behalf of Hannah Poling, Vienna, Virginia, Court of Federal Claims Number 02–1466V
146. Mark Friedman on behalf of Johnathan Friedman, Houston, Texas, Court of Federal Claims Number 02–1467V
147. Christina and Bruce Dowlen on behalf of Chase Dowlen, Melbourne, Florida, Court of Federal Claims Number 02–1468V
148. Barbara Russick on behalf of Alyssa Russick, Millville, New Jersey, Court of Federal Claims Number 02–1469V
149. Lisa and John Sportelli-Wright on behalf of Ean Sportelli-Wright, Dallas, Texas, Court of Federal Claims Number 02–1470V
150. Dorothy and Michael Marue on behalf of Paul Marue, Trenton, New Jersey, Court of Federal Claims Number 02–1471V
151. Donna and Earl Lewis on behalf of Logan Lewis, Baton Rouge, Louisiana, Court of Federal Claims Number 02–1473V
152. Cortney Elizabeth Goldberg on behalf of Jacob Nash Goldberg, Royal Oak, Michigan, Court of Federal Claims Number 02–1475V
153. Gene Velchek, Decatur, Illinois, Court of Federal Claims Number 02–1479V
154. Laurie Christiansen on behalf of Raymond Christiansen, Boston, Massachusetts, Court of Federal Claims Number 02–1480V
155. Laurie Christiansen on behalf of Matthew Christiansen, Boston, Massachusetts, Court of Federal Claims Number 02–1481V
156. Darlene Waters-D'India on behalf of Michael David D'India, Boston, Massachusetts, Court of Federal Claims Number 02–1482V
157. Marjorie Shulsinger on behalf of Rachel Shulsinger, Boston, Massachusetts, Court of Federal Claims Number 02–1483V
158. Jennifer Dick on behalf of Jared Dick, Boston, Massachusetts, Court of Federal Claims Number 02–1484V
159. Carrie Hammers on behalf of Ian Hammers, Boston, Massachusetts, Court of Federal Claims Number 02–1485V
160. Martha Anderson on behalf of Woodrow Pugh, Boston, Massachusetts, Court of Federal Claims Number 02–1486V
161. Jantha and Samuel Houston on behalf of Donald Gray Houston, Houston, Texas, Court of Federal Claims Number 02–1487V
162. Charlotte Kemper on behalf of Sullivan Kemper, Vienna, Virginia, Court of Federal Claims Number 02–1489V
163. Carolyn Reed, Vienna, Virginia, Court of Federal Claims Number 02–1490V
164. Michelle Howie on behalf of Kaleigh Briele Grimes, Vienna, Virginia, Court of Federal Claims Number 02–1491V
165. Sherry and Scott Pearson on behalf of Tristen Lloyd Pearson, Nacogdoches, Texas, Court of Federal Claims Number 02–1492V
166. Christine and Lee Kiester on behalf of Connor William Kiester, Roseburg, Oregon, Court of Federal Claims Number 02–1493V
167. Tracie McNeil on behalf of Jontrell Rayveen Pritchett, Flint, Michigan, Court of Federal Claims Number 02–1494V
168. Patricia and Don Adams on behalf of Christian Adrian Adams, Chula Vista, California, Court of Federal Claims Number 02–1495V
169. Lydia Lynk on behalf of Nailah Kyarah Lynk, Chicago, Illinois, Court of Federal Claims Number 02–1496V
170. Theresa Goosby and Michael Brickner on behalf of Mikel Eric Brickner, Coraopoloa, Pennsylvania, Court of Federal Claims Number 02–1497V
171. Gerri and Edward Graboski on behalf of Andrew Edward Graboski, Staten Island, New York, Court of Federal Claims Number 02–1501V
172. Carol and Greg Fuller on behalf of Blake Garrison Fuller, Cincinnati, Ohio, Court of Federal Claims Number 02–1502V
173. Patricia Noble on behalf of Zachary Noble, Boston, Massachusetts, Court of Federal Claims Number 02–1503V
174. La'Kesha Ray on behalf of Derrick Ray, Jr., Boston, Massachusetts, Court of Federal Claims Number 02–1504V
175. Alina White on behalf of Marquise White, Boston, Massachusetts, Court of Federal Claims Number 02–1505V
176. Cecilia Thompson on behalf of Sarah Thompson, Boston, Massachusetts, Court of Federal Claims Number 02–1506V
177. Alberto Espinosa on behalf of Christian Espinosa, Boston, Massachusetts, Court of Federal Claims Number 02–1507V
178. Kathleen Jurkowich on behalf of Austin Jurkowich, Boston, Massachusetts, Court of Federal Claims Number 02–1508V
179. Scott Carlson on behalf of Matthew Carlson, Boston, Massachusetts, Court of Federal Claims Number 02–1509V
180. Kimberly Haltom on behalf of Justin Haltom, Boston, Massachusetts, Court of Federal Claims Number 02–1510V
181. Monica Schons on behalf of Nicholas Schons, Boston, Massachusetts, Court of Federal Claims Number 02–1511V
182. Rasheeda McAllister on behalf of Braxton Alford, Charleston, South Carolina, Court of Federal Claims Number 02–1512V
183. Kelly Matthew and Nick Joseph on behalf of Bridgette Joseph, Melbourne, Florida, Court of Federal Claims Number 02–1513V
184. Clay Heighton and Debra Caudy on behalf of Jon Brigham Heighton, Dallas, Texas, Court of Federal Claims Number 02–1524V
185. Joanne Blair and Malae Pete on behalf of Malaetasi Sue-Sue Blair-Pete, San Pedro, California, Court of Federal Claims Number 02–1525V
186. Karen and David Smith on behalf of David Edward Smith, New Orleans, Louisiana, Court of Federal Claims Number 02–1526V
187. Marie and Ed Winegardner on behalf of Damon Edward Fuzz Winegardner, Logansport, Indiana, Court of Federal Claims Number 02–1527V
188. Frances and Ricky Peralta on behalf of Ricky Quitasol Peralta, San Diego, Carolina, Court of Federal Claims Number 02–1528V
189. Melissa Williams on behalf of Andrew Dante Williams, Selma, Alabama, Court of Federal Claims Number 02–1532V
190. Lea Bass on behalf of Augus Anthony Bass, Torrance, California, Court of Federal Claims Number 02–1533V
191. Janoah White on behalf of Marshawn Antonio Burrell, Chicago, Illinois, Court of Federal Claims Number 02–1534V
192. Linda Kaye Schiding on behalf of Anthony Joseph Thomas, Baltimore, Maryland, Court of Federal Claims Number 02–1535V
193. Eletha Eades on behalf of Nathan Kenneth Eades, Tonopah, Nevada, Court of Federal Claims Number 02–1536V
194. Barbara Ramirez on behalf of Katherine Ramirez, Yarmouth, Maine, Court of Federal Claims Number 02–1538V
195. Barbara Ramirez on behalf of Aaron Ramirez, Yarmouth, Maine, Court of Federal Claims Number 02–1539V
196. Debra and Richard Levinton on behalf of Molly Hannah Levinton, Sugar Land, Texas, Court of Federal Claims Number 02–1540V
197. Peggy and Timothy Casey on behalf of Jennifer Elise Casey, Hinsdale, Illinois, Court of Federal Claims Number 02–1541V
198. Betty and Leon Cooper on behalf of Tianna Latrice Cooper, Natchez,

Mississippi, Court of Federal Claims Number 02–1542V
199. Sonya and Fred Theilen on behalf of Anastasia Elizabeth Theilen, Springfield, Illinois, Court of Federal Claims Number 02–1543V
200. Rhonda and Lee Weber on behalf of Ryan Lee Weber, Frankfort, Kentucky, Court of Federal Claims Number 02–1544V
201. Mary and Jeff Dillard on behalf of Claudia Amanda Dillard, Birmingham, Alabama, Court of Federal Claims Number 02–1545V
202. Christine and Stephen Spanola on behalf of Joseph Spanola, Great Neck, New York, Court of Federal Claims Number 02–1547V
203. Deborah and Stephen Beroske on behalf of Kyle Beroske, Great Neck, New York, Court of Federal Claims Number 02–1548V
204. Meredith and Jeffrey Hess on behalf of Joshua Hess, Great Neck, New York, Court of Federal Claims Number 02–1549V
205. Elizabeth and Steven Parker on behalf of Kiera Parker, Melbourne, Florida, Court of Federal Claims Number 02–1553V
206. Jennifer Dixon on behalf of Parker Landon Dixon, Houston, Texas, Court of Federal Claims Number 02–1555V
207. Melinda and Geoffrey Alleyne on behalf of Joshua Alleyne, Houston, Texas, Court of Federal Claims Number 02–1556V
208. Joan M. Kelley on behalf of Ian Michael Pitcherello, Wilmington, Delaware, Court of Federal Claims Number 02–1557V
209. Deborah and Robert Edwards on behalf of Tyler Garrett Edwards, Mount Holly, New Jersey, Court of Federal Claims Number 02–1558V
210. Kerry and Adrian Kost on behalf of Brendan Patrick Kost, Palos Heights, Illinois, Court of Federal Claims Number 02–1559V
211. Robert Wooten on behalf of Nicholas Dale Wooten, Dallas, Texas, Court of Federal Claims Number 02–1560V
212. Delorise Lee Coleman on behalf of Reshawnda Denise Jenkins, Houston, Texas, Court of Federal Claims Number 02–1561V
213. Linda Lee Lewis on behalf of Cortney Danielle Quinn, Houston, Texas, Court of Federal Claims Number 02–1562V
214. Dekita R. Mays on behalf of T'Neesha Jsh'Leotishia Edwards, Houston, Texas, Court of Federal Claims Number 02–1563V
215. Dekita R. Mays on behalf of Kia Tyroneshia Mays, Houston, Texas, Court of Federal Claims Number 02–1564V
216. Viola P. McDonald on behalf of David McDonald, Jr., Houston, Texas, Court of Federal Claims Number 02–1565V
217. Viola P. McDonald on behalf of Randy McDonald, Houston, Texas, Court of Federal Claims Number 02–1566V
218. Polly Mealey on behalf of Renee Jones, Houston, Texas, Court of Federal Claims Number 02–1567V
219. Helen Quinn on behalf of Jahaquial Antonio Lambert, Houston, Texas, Court of Federal Claims Number 02–1568V
220. Marilyn Wilson on behalf of Samuel Israel Wilson, Houston, Texas, Court of Federal Claims Number 02–1569V
221. Lucy Woods on behalf of Joshua Woods, Houston, Texas, Court of Federal Claims Number 02–1570V
222. Jeanine Dillon on behalf of Janaca Dillon, Houston, Texas, Court of Federal Claims Number 02–1571V
223. Jeanine Dillon on behalf of Tra'Vione Bates, Houston, Texas, Court of Federal Claims Number 02–1572V
224. May Good on behalf of Devin Devinski Reshad Good, Houston, Texas, Court of Federal Claims Number 02–1573V
225. May Good on behalf of Kentadrin Shunntez Good, Houston, Texas, Court of Federal Claims Number 02–1574V
226. LaQuanda Lewis on behalf of MyKayla Ware, Houston, Texas, Court of Federal Claims Number 02–1575V
227. LaQuanda Lewis on behalf of Candi Me'Sha Ware, Houston, Texas, Court of Federal Claims Number 02–1576V
228. Phyllis Roby on behalf of Crisetta Renee Roby, Houston, Texas, Court of Federal Claims Number 02–1577V
229. Jessica Shannon on behalf of Tory Taquorin Shannon, Houston, Texas, Court of Federal Claims Number 02–1578V
230. Tyese Washington on behalf of Brandilyn Z. Page, Houston, Texas, Court of Federal Claims Number 02–1579V
231. Shelia Watson on behalf of Jamal Lee Watson, Houston, Texas, Court of Federal Claims Number 02–1580V
232. Linda Kay White on behalf of Darius Deon Duck, Houston, Texas, Court of Federal Claims Number 02–1581V
233. Annie Sanders on behalf of Alyssa Colette Mixon, Houston, Texas, Court of Federal Claims Number 02–1582V
234. Annie Sanders on behalf of Maurice Eugene Mixon, Houston, Texas, Court of Federal Claims Number 02–1583V
235. Annie Sanders on behalf of Mack Neese Sanders, III, Houston, Texas, Court of Federal Claims Number 02–1584V
236. Patricia Metcalf on behalf of Adrian Ryan Metcalf, Houston, Texas, Court of Federal Claims Number 02–1585V
237. Patricia Metcalf on behalf of Ruben Avery Metcalf, Houston, Texas, Court of Federal Claims Number 02–1586V
238. Antreinika Tenner on behalf of Aysia DeMonaye Tenner, Houston, Texas, Court of Federal Claims Number 02–1587V
239. Tangela Strong on behalf of Tiffany Andrea Lane, Houston, Texas, Court of Federal Claims Number 02–1588V
240. Detrossa Rule on behalf of Darrion DeVante'' Rule, Houston, Texas, Court of Federal Claims Number 02–1589V
241. Sarah Patterson on behalf of Akili Patterson, Houston, Texas, Court of Federal Claims Number 02–1590V
242. Robin Chambliss on behalf of Calvin Chambliss, Jr., Houston, Texas, Court of Federal Claims Number 02–1591V
243. Jody and Alma Buck on behalf of Malcolm O'Tan Buck, Houston, Texas, Court of Federal Claims Number 02–1592V
244. Patricia Brown on behalf of Jerome D'Wayne Brown, Houston, Texas, Court of Federal Claims Number 02–1593V
245. Patricia Brown on behalf of Desmond Allen Brown, Houston, Texas, Court of Federal Claims Number 02–1594V
246. Edna Brown on behalf of Charles De'Angelo Brown, Houston, Texas, Court of Federal Claims Number 02–1595V
247. Felicia Banks on behalf of Frederick Felisco Van Norman, Houston, Texas, Court of Federal Claims Number 02–1596V
248. Lavonne M. Belton on behalf of Jimmie Lee Belton, Houston, Texas, Court of Federal Claims Number 02–1597V
249. Lavonne M. Belton on behalf of Rober Lee Belton, Jr., Houston, Texas, Court of Federal Claims Number 02–1598V
250. Erica Jones on behalf of Solomon John Ben Jones, Houston, Texas, Court of Federal Claims Number 02–1599V
251. Cora Haynes on behalf of Jadale Lamon Haynes, Houston, Texas, Court of Federal Claims Number 02–1600V
252. Cora Haynes on behalf of Jamel Antwan Haynes, Houston, Texas, Court of Federal Claims Number 02–1601V
253. Chandra Haggan on behalf of Shandarius Leron Haggan, Houston, Texas, Court of Federal Claims Number 02–1602V
254. Lakeisha Felder on behalf of Alphonse Nathan Rogers, Jr., Houston, Texas, Court of Federal Claims Number 02–1603V
255. Jennifer Edwards on behalf of Justin Johnvann Terry, Houston, Texas, Court of Federal Claims Number 02–1604V
256. Marilyn Davis on behalf of Javonte' Da Juan Nelson, Houston, Texas, Court of Federal Claims Number 02–1605V
257. Carolyn Davillier on behalf of Melvin Davillier, Houston, Texas, Court of Federal Claims Number 02–1606V
258. Galaundra Myles on behalf of Jeremy Dawayne Miles, Houston, Texas, Court of Federal Claims Number 02–1607V
259. Heather Berg on behalf of Ysanna P. Jones, Alexandria, Virginia, Court of Federal Claims Number 02–1608V
260. Marcella and Devonna Herbert on behalf of Van Herbert, Alexandria, Virginia, Court of Federal Claims Number 02–1609V
261. Kimberly and Richard Cullen on behalf of Liam H. Cullen, Melbourne, Florida, Court of Federal Claims Number 02–1610V
262. Kimberly and Richard Cullen on behalf of Sean R. Cullen, Melbourne, Florida, Court of Federal Claims Number 02–1611V
263. Liquan Wang and Jianqiang Mao on behalf of Jeff Mao, Great Neck, New York, Court of Federal Claims Number 02–1612V
264. Kelly and Timothy Lucas on behalf of Abigale Lucas, Great Neck, New York, Court of Federal Claims Number 02–1613V
265. Teresa and David Barschi on behalf of Andre Barschi, Great Neck, New York, Court of Federal Claims Number 02–1614V
266. Randy Lockhart on behalf of Noah Lockhart, Great Neck, New York, Court of Federal Claims Number 02–1615V
267. Terry Donner and Michael Small on behalf of Ian Michael Small, Great Neck, New York, Court of Federal Claims Number 02–1616V
268. Kim Kassick on behalf of Kody Kassick, Great Neck, New York, Court of Federal Claims Number 02–1617V
269. Mary Landis on behalf of Andrew Valenta, Encinitas, California, Court of Federal Claims Number 02–1618V
270. Bradley Hall, Mesa, Arizona, Court of Federal Claims Number 02–1626V
271. Christopher Sabella, Voorhees, New Jersey, Court of Federal Claims Number 02–1627V
272. Cindy and Brad Canfield on behalf of Theodore Canfield, Nashua, New

Hampshire, Court of Federal Claims Number 02–1629V
273. Darsky McMorris on behalf of Kayla Alice McMorris, Houston, Texas, Court of Federal Claims Number 02–1633V
274. Pauline Cooley on behalf of Jermaine Jerome Cooley, Jr., Houston, Texas, Court of Federal Claims Number 02–1634V
275. Helen Hicks on behalf of Alexandria D. Hicks, Houston, Texas, Court of Federal Claims Number 02–1635V
276. Letticia Lockhart on behalf of Nathaniel Lockhart, Houston, Texas, Court of Federal Claims Number 02–1636V
277. Teresa Minton on behalf of Earvin Jerome Minton, Jr., Houston, Texas, Court of Federal Claims Number 02–1637V
278. Kaura Perkins on behalf of La'Jerrious Perkins, Houston, Texas, Court of Federal Claims Number 02–1638V
279. Charmaine O'Bryant on behalf of Ben Edward Varnado, Houston, Texas, Court of Federal Claims Number 02–1639V
280. Sharon Reed on behalf of Trevor Anthony Reed, Houston, Texas, Court of Federal Claims Number 02–1640V
281. Carla Wallace on behalf of A'Ja Wallace, Houston, Texas, Court of Federal Claims Number 02–1641V
282. Shalottie Reynolds on behalf of Michael Anthony Fort, Jr., Houston, Texas, Court of Federal Claims Number 02–1642V
283. Rozella Webb on behalf of Cadarrious Hodges, Houston, Texas, Court of Federal Claims Number 02–1643V
284. Maple Campbell on behalf of Jamie Gilson, Houston, Texas, Court of Federal Claims Number 02–1644V
285. Lori and Jeffrey Bradstreet on behalf of Matthew James Bradstreet, Melbourne, Florida, Court of Federal Claims Number 02–1645V
286. Suzanne and Russell Pieper on behalf of Sean Pieper, Melbourne, Florida, Court of Federal Claims Number 02–1646V
287. Lori and Jeffrey Bradstreet on behalf of Elizabeth Bradstreet, Melbourne, Florida, Court of Federal Claims Number 02–1647V
288. Alison and Daniel Bushnell on behalf of Joshua Bushnell, Auburn, Massachusetts, Court of Federal Claims Number 02–1648V
289. Natasha and John Hooks on behalf of Nijah Shemar Hooks, Hammond, Louisiana, Court of Federal Claims Number 02–1649V
290. Meri and Shawn Kelly on behalf of Daniel Laurnece Kelly, Whitestone, New York, Court of Federal Claims Number 02–1650V
291. Elizabeth and Robert Davis on behalf of Brandon Taylor Davis, Glendale, California, Court of Federal Claims Number 02–1651V
292. Bridgette and Stephen Hernandez on behalf of Stephen Matthew Hernandez, Gilbert, Arizona, Court of Federal Claims Number 02–1652V
293. Aimee and John Lewis on behalf of Brandon Thomas Lewis, Ridley Park, Pennsylvania, Court of Federal Claims Number 02–1653V
294. Julie and David Baskin on behalf of Danielle Alise Baskin, Houston, Texas, Court of Federal Claims Number 02–1654V
295. Kelly and Peter Brush on behalf of Peter James Brush, Harve De Grace, Maryland, Court of Federal Claims Number 02–1655V
296. Traci and Rodney Miller on behalf of Sydney Paige Miller, Latrobe, Pennsylvania, Court of Federal Claims Number 02–1656V
297. Jennifer and Kenneth Bartels on behalf of Jeremy Curtis Bartels, Neenah, Wisconsin, Court of Federal Claims Number 02–1657V
298. Jennifer and Kenneth Bartels on behalf of Joshua Aaron Bartels, Neenah, Wisconsin, Court of Federal Claims Number 02–1658V
299. Kimberly and Orville Baumgardner on behalf of Alexander Michael Baumgardner, Portland, Oregon, Court of Federal Claims Number 02–1659V
300. Catherine and Peter Marasco on behalf of Thomas Marasco, New York, New York, Court of Federal Claims Number 02–1660V
301. Donna and Elias Hourani on behalf of Stefan E. Hourani, Melbourne, Florida, Court of Federal Claims Number 02–1662V
302. Alfred Lonky, Bayside, New York, Court of Federal Claims Number 02–1663V
303. Jo Ann and Nicholas Stadtmueller on behalf of Mark Stadtmueller, Vienna, Virginia, Court of Federal Claims Number 02–1665V
304. Ben Radecky, Vienna, Virginia, Court of Federal Claims Number 02–1666V
305. Jillian and Scott Copeland on behalf of Nicolas Copeland, Vienna, Virginia, Court of Federal Claims Number 02–1667V
306. Haidee and Carl DeRouen on behalf of Isabella DeRouen, Cape Girardeau, Missouri, Court of Federal Claims Number 02–1668V
307. Connie Hudson on behalf of Adam Ebinger, Cape Girardeau, Missouri, Court of Federal Claims Number 02–1669V
308. Carrie and Clint Harlan on behalf of Hunter Harlan, Cape Girardeau, Missouri, Court of Federal Claims Number 02–1670V
309. Carola and Herman Bernard on behalf of Reginald L. Bernard, New Orleans, Louisiana, Court of Federal Claims Number 02–1672V
310. Ellen Schneider and Samuel Alexander on behalf of Benjamin D. Alexander, New Orleans, Louisiana, Court of Federal Claims Number 02–1673V
311. Georgia and Freddie Anderson on behalf of Robert Thomas-Anderson, New Orleans, Louisiana, Court of Federal Claims Number 02–1674V
312. Melissa McGrew and Larry Blackwell on behalf of Martin F. Blackwell, New Orleans, Louisiana, Court of Federal Claims Number 02–1675V
313. Chundra and Oscar Blakely on behalf of Ryan B. Blakely, New Orleans, Louisiana, Court of Federal Claims Number 02–1676V
314. Camilla and Gary Brown on behalf of Justin F. Brown, New Orleans, Louisiana, Court of Federal Claims Number 02–1677V
315. Allyson and Bryan Collins on behalf of Zachary W. Collins, New Orleans, Louisiana, Court of Federal Claims Number 02–1678V
316. Sherry and C.A. Cook on behalf of Darron A. Cook, New Orleans, Louisiana, Court of Federal Claims Number 02–1679V
317. Beverly and Jules Cousin on behalf of Evan C. Cousin, New Orleans, Louisiana, Court of Federal Claims Number 02–1680V
318. Cheryl and David Cutler on behalf of Jeremiah S. Cutler, New Orleans, Louisiana, Court of Federal Claims Number 02–1681V
319. Maurica Johnson and Lee Dickey on behalf of Demarkus Dickey, New Orleans, Louisiana, Court of Federal Claims Number 02–1682V
320. Sonja and Tony Flournoy on behalf of Tony K. Flournoy, Jr., New Orleans, Louisiana, Court of Federal Claims Number 02–1683V
321. Sue Ann and David Forbat on behalf of Luke E. Forbat, New Orleans, Louisiana, Court of Federal Claims Number 02–1684V
322. Connie and John Gamberi on behalf of John A. Gamberi, Jr., New Orleans, Louisiana, Court of Federal Claims Number 02–1685V
323. Gena Adams on behalf of Christopher T. Glover, New Orleans, Louisiana, Court of Federal Claims Number 02–1686V
324. Carolyn and Elton Green on behalf of Michael Green, New Orleans, Louisiana, Court of Federal Claims Number 02–1687V
325. Mary Jane and Scott Guidry on behalf of William Hunt Guidry, New Orleans, Louisiana, Court of Federal Claims Number 02–1688V
326. Wendy and Dustin Hilton on behalf of Hannah Hilton, New Orleans, Louisiana, Court of Federal Claims Number 02–1689V
327. Michelle Stewart Holloway on behalf of Arnissa Lachell Holloway, New Orleans, Louisiana, Court of Federal Claims Number 02–1690V
328. Jaquary Jackson on behalf of Kheirin Jackson, New Orleans, Louisiana, Court of Federal Claims Number 02–1691V
329. Laurie and Mark Klinedinst on behalf of Kelsey F. Klinedinst, New Orleans, Louisiana, Court of Federal Claims Number 02–1692V
330. Shirley Lacey on behalf of Ahkeem Lacey, New Orleans, Louisiana, Court of Federal Claims Number 02–1693V
331. Kristi Lee on behalf of Justin Samuel, New Orleans, Louisiana, Court of Federal Claims Number 02–1694V
332. Catherine and Kenneth Montz on behalf of Seth J. Montz, New Orleans, Louisiana, Court of Federal Claims Number 02–1695V
333. Teri and Tracy Pitts on behalf of Jerod A. Pitts, New Orleans, Louisiana, Court of Federal Claims Number 02–1696V
334. Brandi Poteat on behalf of Ethan Poteat, New Orleans, Louisiana, Court of Federal Claims Number 02–1697V
335. Victoria and Kelvin Samuel on behalf of Karnisha L. Samuel, New Orleans, Louisiana, Court of Federal Claims Number 02–1698V
336. Dianna Lyn Schumacher, New Orleans, Louisiana, Court of Federal Claims Number 02–1699V
337. Annette and John Stewart on behalf of Ian E. Stewart, New Orleans, Louisiana, Court of Federal Claims Number 02–1700V
338. Vanessa and Sherman Thomas on behalf of Sherman A. Thomas, Jr., New Orleans, Louisiana, Court of Federal Claims Number 02–1701V
339. Jennifer and James Toombs on behalf of Jacob M. Toombs, New Orleans, Louisiana, Court of Federal Claims Number 02–1702V
340. Lauren and David Underwood on behalf of Rachael H. Underwood, New Orleans, Louisiana, Court of Federal Claims Number 02–1703V

341. Donna and Thomas Williams on behalf of Dylan R. Williams, New Orleans, Louisiana, Court of Federal Claims Number 02–1704V
342. Shawanda and Theodore Williams on behalf of Elijah Williams, New Orleans, Louisiana, Court of Federal Claims Number 02–1705V
343. Shawanda and Theodore Williams on behalf of Jeremy Williams, New Orleans, Louisiana, Court of Federal Claims Number 02–1706V
344. Julie and James Christiansen on behalf of Karissa Joann Christiansen, Temecula, California, Court of Federal Claims Number 02–1707V
345. Tony Vi and Thuy Hunyh on behalf of Brandon Vi, Temecula, California, Court of Federal Claims Number 02–1708V
346. Michelle and Harold Hannon on behalf of Christian Hannon, Temecula, California, Court of Federal Claims Number 02–1709V
347. Monica and Scott Mattias on behalf of Alexander Scott Mattias, Temecula, California, Court of Federal Claims Number 02–1710V
348. Charleyne Stumpf on behalf of Kyle William Stumpf, Chelmsford, Massachusetts, Court of Federal Claims Number 02–1711V
349. Alton Alexander on behalf of Alton Aaron Alexander, Tyler, Texas, Court of Federal Claims Number 02–1712V
350. Ann-Marie and Patrick Growe on behalf of Danile Growe, Minneapolis, Minnesota, Court of Federal Claims Number 02–1713V
351. Kelly and Richard Kerns on behalf of Kayle Kerns, Olathe, Kansas, Court of Federal Claims Number 02–1714V
352. Kelly and Richard Kerns on behalf of Daniel Kerns, Olathe, Kansas, Court of Federal Claims Number 02–1715V
353. Janel McGrath on behalf of Amanda McGrath, Portland, Oregon, Court of Federal Claims Number 02–1716V
354. Cindy Nix on behalf of Garrett Nix, Portland, Oregon, Court of Federal Claims Number 02–1717V
355. Julia Oh on behalf of Brayden Oh, Portland, Oregon, Court of Federal Claims Number 02–1718V
356. Christine Roberts on behalf of Carl Roberts, Portland, Oregon, Court of Federal Claims Number 02–1719V
357. Andrea Sovern on behalf of Kolin Sovern, Portland, Oregon, Court of Federal Claims Number 02–1720V
358. Karen and Christopher Stanley on behalf of Heath Stanley, Portland, Oregon, Court of Federal Claims Number 02–1721V
359. Rachel Kirk on behalf of Deven Kirk, Portland, Oregon, Court of Federal Claims Number 02–1722V
360. Angela Bliss-Chavelas on behalf of Alexander Chavelas, Portland, Oregon, Court of Federal Claims Number 02–1723V
361. Kemberlya Finnie on behalf of Sha Quana Finnie, Portland, Oregon, Court of Federal Claims Number 02–1724V
362. Tracey Imper on behalf of Jadin Imper, Portland, Oregon, Court of Federal Claims Number 02–1725V
363. Bree Lyn Lewis on behalf of Hope Lewis, Portland, Oregon, Court of Federal Claims Number 02–1726V
364. Jonathan Mahurin on behalf of Tristan Mahurin, Portland, Oregon, Court of Federal Claims Number 02–1727V
365. Sha and Jason Hurst on behalf of Hannah Hurst, Birmingham, Alabama, Court of Federal Claims Number 02–1732V
366. Terri Nagel on behalf of Ethan Nathan McCabe, Great Neck, New York, Court of Federal Claims Number 02–1733V
367. Kelly and Bradley King on behalf of Sean King, Great Neck, New York, Court of Federal Claims Number 02–1734V
368. Joanne and Gregory Killiam on behalf of Zackery S. Killiam, Great Neck, New York, Court of Federal Claims Number 02–1735V
369. Cindy and Jason Kifer on behalf of Austin Kifer, Great Neck, New York, Court of Federal Claims Number 02–1736V
370. Michele and Vincent Lovenduski on behalf of Austin Lovenduski, Great Neck, New York, Court of Federal Claims Number 02–1737V
371. Kim Lampp on behalf of Joseph R. Lampp, Great Neck, New York, Court of Federal Claims Number 02–1738V
372. Dale Norman on behalf of Alexander Norman, Boston, Massachusetts, Court of Federal Claims Number 02–1739V
373. Benjamin Blood on behalf of Paul Blood, Boston, Massachusetts, Court of Federal Claims Number 02–1740V
374. Vincent Fusco on behalf of Vincent A. Fusco, Boston, Massachusetts, Court of Federal Claims Number 02–1741V
375. Nathaniel Brogan-Kim on behalf of Paul Kim, Boston, Massachusetts, Court of Federal Claims Number 02–1742V
376. Lori Matula on behalf of Paul Matula, Arlington Heights, Illinois, Court of Federal Claims Number 02–1743V
377. Donna Manente on behalf of Melanie Manente, Vienna, Virginia, Court of Federal Claims Number 02–1746V
378. Donna Manente on behalf of Michael Manente, Vienna, Virginia, Court of Federal Claims Number 02–1747V
379. Julie and Seth Hemingway on behalf of Colter Hemingway, Vienna, Virginia, Court of Federal Claims Number 02–1748V
380. Kelly and Richard Kerns on behalf of Andrew Kerns, Olathe, Kansas, Court of Federal Claims Number 02–1749V
381. Jinger Rosalez-Fergus on behalf of Charles Fergus, Boston, Massachusetts, Court of Federal Claims Number 02–1750V
382. Shelley Woodard on behalf of Dylan Hunt, Boston, Massachusetts, Court of Federal Claims Number 02–1751V
383. Sandra Cuevas on behalf of Jacob Cuevas, Boston, Massachusetts, Court of Federal Claims Number 02–1752V
384. Margaret Simms on behalf of Joshua Simms, Boston, Massachusetts, Court of Federal Claims Number 02–1753V
385. Ursula Zettlemoyer on behalf of Melanie Zettlemoyer, Boston, Massachusetts, Court of Federal Claims Number 02–1754V
386. Toby Gregory on behalf of Jonathan Dean Gregory, Boston, Massachusetts, Court of Federal Claims Number 02–1755V
387. Mary Wallace on behalf of Grant Wallace, Boston, Massachusetts, Court of Federal Claims Number 02–1756V
388. Gabriele Sausnock on behalf of Joseph Brady, IV, Boston, Massachusetts, Court of Federal Claims Number 02–1757V
389. Richard A. Diamond on behalf of Richard F. Diamond, Boston, Massachusetts, Court of Federal Claims Number 02–1758V
390. Irene Sturgeon on behalf of Jacob Sturgeon, Boston, Massachusetts, Court of Federal Claims Number 02–1759V
391. Kay and Thomas Dykes on behalf of Thomas Dykes, Jr., Houston, Texas, Court of Federal Claims Number 02–1760V
392. Jacquelyn Wilkerson and Scott Shirley on behalf of Jordan Shirley, Houston, Texas, Court of Federal Claims Number 02–1761V
393. Martin O'Brien and Jacqueline Mooney O'Brien on behalf of Kevin O'Brien, Houston, Texas, Court of Federal Claims Number 02–1762V
394. Cheryl and Donald Bondank on behalf of Gunnar H. Bondank, Houston, Texas, Court of Federal Claims Number 02–1763V
395. Ilene and Thomas Bassler on behalf of Daniel Bassler, Great Neck, New York, Court of Federal Claims Number 02–1764V
396. Carmen and Craig Carley on behalf of Collin Seamus Carley, Dallas, Texas, Court of Federal Claims Number 02–1765V
397. Jennifer and Scott Kincaid on behalf of Lauren Kincaid, Lewisville, Texas, Court of Federal Claims Number 02–1766V
398. Cathy Dean, Lyburn, West Virginia, Court of Federal Claims Number 02–1769V
399. Lisa and Michael Fesanco on behalf of Michael John Fesanco, North Miami, Florida, Court of Federal Claims Number 02–1770V
400. Adraine and David Kerns on behalf of Christopher Wayne Kerns, Richmond, Virginia, Court of Federal Claims Number 02–1771V
401. Kim and Paul Morel on behalf of Brittany Mashell Morel, Milton, Florida, Court of Federal Claims Number 02–1772V
402. Edward Page, Sr. on behalf of Florence Page, Deceased, Boston, Massachusetts, Court of Federal Claims Number 02–1774V
403. Barbara Hall on behalf of Dennis Culbert, Houston, Texas, Court of Federal Claims Number 02–1775V
404. Kenyada Snell on behalf of Cedarrious Dunmore, Houston, Texas, Court of Federal Claims Number 02–1776V
405. Lisa Jackson on behalf of Sabrina Jackson, Houston, Texas, Court of Federal Claims Number 02–1777V
406. Shamarion Jones on behalf of Ronald Williams, Jr., Houston, Texas, Court of Federal Claims Number 02–1778V
407. Yakima Thomas on behalf of Anfernee Thomas, Houston, Texas, Court of Federal Claims Number 02–1779V
408. Brenda White on behalf of Steven White, Houston, Texas, Court of Federal Claims Number 02–1780V
409. Cathy Hedrick on behalf of Jayce Hedrick, Houston, Texas, Court of Federal Claims Number 02–1781V
410. Cathy Hedrick on behalf of Marvin Hedrick, Houston, Texas, Court of Federal Claims Number 02–1782V
411. Lynda Green on behalf of Anthony Dean, Jr., Houston, Texas, Court of Federal Claims Number 02–1783V
412. Victoria Andrews on behalf of Orry Andrews, Houston, Texas, Court of Federal Claims Number 02–1784V

413. Penny Taylor on behalf of Brianna Ainsworth, Houston, Texas, Court of Federal Claims Number 02–1785V
414. Steven Gretchko on behalf of Benjamin Gretchko, Birmingham, Michigan, Court of Federal Claims Number 02–1788V
415. Kathleen and Jordan Vickers on behalf of Jordan Vickers, Jr., Houston, Texas, Court of Federal Claims Number 02–1789V
416. Renee and James Stepnoski on behalf of Tyler Stepnoski, Houston, Texas, Court of Federal Claims Number 02–1790V
417. Carol and Ken Stanton on behalf of Krystal L. Stanton, Houston, Texas, Court of Federal Claims Number 02–1791V
418. Pattie and Galen Gamble on behalf of Garet E. Bamble, Houston, Texas, Court of Federal Claims Number 02–1792V
419. Melanie G. Mulderig on behalf of Nicholas J. Mulderig, Alexandria, Virginia, Court of Federal Claims Number 02–1793V
420. Karen Harbin on behalf of Ryka Nicole Harbin, Deceased, Gurly, Alabama, Court of Federal Claims Number 02–1794V
421. Katheryn and Timothy Hartigan on behalf of Conner M. Hardigan, Melbourne, Florida, Court of Federal Claims Number 02–1796V
422. Beth and Bill Wilson on behalf of Mitchell Wilson, Deceased, Los Gatos, California, Court of Federal Claims Number 02–1797V
423. Angela and Renato Spennato on behalf of Gennaro Spennato, Great Neck, New York, Court of Federal Claims Number 02–1798V
424. Cherie and Richard Gates on behalf of Riyo Gates, Great Neck, New York, Court of Federal Claims Number 02–1799V
425. Elaine Sorenson on behalf of Eldon Sorenson, Portland, Oregon, Court of Federal Claims Number 02–1800V
426. Kimberly Ngo on behalf of Joan Ngo, Portland, Oregon, Court of Federal Claims Number 02–1801V
427. Melissa Hicks on behalf of Liberty Hicks, Portland, Oregon, Court of Federal Claims Number 02–1802V
428. Darren Lamar Cooks on behalf of Jason Lawrence Cooks, Tyler, Texas, Court of Federal Claims Number 02–1803V
429. Helen Vaglia on behalf of Dean Vaglia, Boston, Massachusetts, Court of Federal Claims Number 02–1804V
430. Denise and Michael Carrillo on behalf of Matthew Carrillo, Chicago, Illinois, Court of Federal Claims Number 02–1805V
431. Julie and Mark Murtagh on behalf of Mark G. Murtagh, III, Alexandria, Virginia, Court of Federal Claims Number 02–1806V
432. Shirley Cruel on behalf of Carlos Anderson, Houston, Texas, Court of Federal Claims Number 02–1808V
433. Yulunda Henry-Lacking on behalf of Kevonte Henry, Houston, Texas, Court of Federal Claims Number 02–1809V
434. Sharon Kaho on behalf of Joseph Knight, Jr., Houston, Texas, Court of Federal Claims Number 02–1810V
435. Sharon Kaho on behalf of Joshua Knight, Houston, Texas, Court of Federal Claims Number 02–1811V
436. Bessie DuVaul on behalf of JaJuan DeVaul, Houston, Texas, Court of Federal Claims Number 02–1812V
437. Nicole Freeman on behalf of Shukeven Freeman, Houston, Texas, Court of Federal Claims Number 02–1813V
438. Michael Goff on behalf of Maegan Goff, Houston, Texas, Court of Federal Claims Number 02–1814V
439. Michelle Wilson on behalf of Rodreckos Hill, Houston, Texas, Court of Federal Claims Number 02–1815V
440. Michelle Wilson on behalf of James Hill, Houston, Texas, Court of Federal Claims Number 02–1816V
441. Margie January on behalf of Elmo January, Houston, Texas, Court of Federal Claims Number 02–1817V
442. Dorothy Green on behalf of Earl Manning, Jr., Houston, Texas, Court of Federal Claims Number 02–1818V
443. Connie Thomas on behalf of Cordrion Tucker, Houston, Texas, Court of Federal Claims Number 02–1819V
444. Barbara Wells-Henry on behalf of Quatavieus Wells, Houston, Texas, Court of Federal Claims Number 02–1820V
445. Catherine and Jared Cook on behalf of McCrae Cook, Melbourne, Florida, Court of Federal Claims Number 02–1821V
446. Patricia and Brett Brenner on behalf of Bradley Brenner, Melbourne, Florida, Court of Federal Claims Number 02–1822V
447. Virginia and Robin Conner on behalf of Matthew R. Conner, Melbourne, Florida, Court of Federal Claims Number 02–1823V
448. Kimberly and James Barry on behalf of Shawn P. Barry, Melbourne, Florida, Court of Federal Claims Number 02–1824V
449. Susan and Jimmy Carr on behalf of Daniel V. Carr, Panama City Beach, Florida, Court of Federal Claims Number 02–1825V
450. Laurey Tedeschi on behalf of Jagger Thomas Geroge-Tedeschi, Dallas, Texas, Court of Federal Claims Number 02–1826V
451. Sandra Daneri on behalf of Erik Daneri, Harvest, Alabama, Court of Federal Claims Number 02–1831V
452. Elizabeth and Steven Skovron on behalf of Quinn Philip Skovron, Philadelphia, Pennsylvania, Court of Federal Claims Number 02–1832V
453. Atoya Moses on behalf of Gadarius Gavon Russell, Dallas, Texas, Court of Federal Claims Number 02–1833V
454. Gregory Newman on behalf of Benjamin Lawrence Newman, Ridgeland, Mississippi, Court of Federal Claims Number 02–1834V
455. Kathren Pigg-Kelly on behalf of Jason Mark Kelly, Petal, Mississippi, Court of Federal Claims Number 02–1835V,
456. Billy Gresham on behalf of Joshua Gresham, Jackson, Mississippi, Court of Federal Claims Number 02–1836V
457. Nina Del Rio on behalf of Rachel Renee Del Rio, Jackson, Mississippi, Court of Federal Claims Number 02–1837V
458. Jornella M. Hattix on behalf of Ladasia N. Brown, Jackson, Mississippi, Court of Federal Claims Number 02–1838V
459. Melanie Yelverton on behalf of Jasmine Hope Abel, Jackson, Mississippi, Court of Federal Claims Number 02–1839V
460. James E. Nicholson on behalf of Jeremy Clydell Nicholson, Jackson, Mississippi, Court of Federal Claims Number 02–1840V
461. Kacey Black Burgess on behalf of Maxwell Parker Lee Burgess, Jackson, Mississippi, Court of Federal Claims Number 02–1841V
462. Sylvia Brown on behalf of Jasmine Racquel Brown, Mesquite, Texas, Court of Federal Claims Number 02–1842V
463. Rosa E. Douglas on behalf of John William Douglas, El Paso, Texas, Court of Federal Claims Number 02–1843V
464. Krissy J. Fagan on behalf of Bradley Kole Fagan, Arlington, Texas, Court of Federal Claims Number 02–1844V
465. Rhonda L. Jones on behalf of Kristin M. Jones, Beaumont, Texas, Court of Federal Claims Number 02–1845V
466. Lilly Martinez Davila on behalf of Adrian Andrew Martinez, El Paso, Texas, Court of Federal Claims Number 02–1846V
467. Joel Salas, Sr. on behalf of Joel Salas, Jr., Dallas, Texas, Court of Federal Claims Number 02–1847V
468. Bennetta Chiles on behalf of Toni Chiles, Arlington, Texas, Court of Federal Claims Number 02–1848V
469. Gricelda Gonzalez on behalf of Evelyn S. Uvalle, Dallas, Texas, Court of Federal Claims Number 02–1849V
470. Gricelda Gonzalez on behalf of Rolando Uvalle, Dallas, Texas, Court of Federal Claims Number 02–1850V
471. Cheryl Karns on behalf of Scott David Karns, Tyler, Texas, Court of Federal Claims Number 02–1852V
472. Patricia Demoville on behalf of Dakota Lee Demoville, Tyler, Texas, Court of Federal Claims Number 02–1853V
473. Sherry Pearson on behalf of Tristen Lloyd Pearson, Tyler, Texas, Court of Federal Claims Number 02–1857V
474. Annette Lagan on behalf of Bryan Lagan, Vienna, Virginia, Court of Federal Claims Number 02–1858V
475. Monica and Matthew White on behalf of Kendrick White, Richmond, Virginia, Court of Federal Claims Number 02–1859V
476. Rosemary and Joel Walker on behalf of Benjamin Walker, Salisbury, North Carolina, Court of Federal Claims Number 02–1860V
477. Brandi Lewellyn on behalf of Brandon Pressler, Salisbury, North Carolina, Court of Federal Claims Number 02–1861V
478. Luann and Kent McIver on behalf of David McIver, Salisbury, North Carolina, Court of Federal Claims Number 02–1862V
479. Luann and Kent McIver on behalf of Eric McIver, Salisbury, North Carolina, Court of Federal Claims Number 02–1863V
480. Amy and Vernon Marion on behalf of Nicholas Chase Marion, Salisbury, North Carolina, Court of Federal Claims Number 02–1864V
481. Cynthia Davis on behalf of Zachary Davis, Salisbury, North Carolina, Court of Federal Claims Number 02–1865V
482. Kasandra Adams on behalf of Terrence Adams, Jr., Houston, Texas, Court of Federal Claims Number 02–1866V
483. Sheila Lumpkin on behalf of Eliezer Beamen, Houston, Texas, Court of Federal Claims Number 02–1867V
484. Lavena Williams on behalf of Eddronica Williams, Houston, Texas, Court of Federal Claims Number 02–1868V
485. Thelma Wilson on behalf of Richandra Thomas, Houston, Texas, Court of Federal Claims Number 02–1869V

486. Supermia Shannon on behalf of Stanton Scott, Jr., Houston, Texas, Court of Federal Claims Number 02–1870V
487. Sherry Luss on behalf of Martin Robertson, Houston, Texas, Court of Federal Claims Number 02–1871V
488. Belinda Flowers on behalf of Eugena Grisby, Houston, Texas, Court of Federal Claims Number 02–1872V
489. Valerie Shropshire on behalf of Israel Smith, Houston, Texas, Court of Federal Claims Number 02–1873V
490. Stephanie and Eric Roan on behalf of Ashley E. Roan, Houston, Texas, Court of Federal Claims Number 02–1874V
491. Cindy and William Van Lammeren on behalf of John Van Lammeren, Houston, Texas, Court of Federal Claims Number 02–1875V
492. Angela and Joseph Rockhold on behalf of Trayven Rockhold, Houston, Texas, Court of Federal Claims Number 02–1876V
493. Jennifer and Kevin Teague on behalf of Tristan R. Teague, Houston, Texas, Court of Federal Claims Number 02–1877V
494. Cindy and William Van Lammeren on behalf of Hannah Van Lammeren, Houston, Texas, Court of Federal Claims Number 02–1878V
495. Marlene Sirianno on behalf of Matthew Ryan Sirianno, Hamburg, New York, Court of Federal Claims Number 02–1879V
496. Connie Parish on behalf of Crystal Marian Parrish, Tyler, Texas, Court of Federal Claims Number 02–1880V
497. Nadia Keyes on behalf of Keith DiMauni London, Tyler, Texas, Court of Federal Claims Number 02–1881V
498. Frances Dinkins on behalf of Blake Turner Dinkins, Tyler, Texas, Court of Federal Claims Number 02–1882V
499. Jeannette Ortiz Quintero on behalf of Armando Quintero, Boston, Massachusetts, Court of Federal Claims Number 02–1883V
500. Philip Lanzatella on behalf of Philip J. Lanzatella, III, Boston, Massachusetts, Court of Federal Claims Number 02–1884V
501. Susan Cottingham on behalf of Meagan Cottingham, Boston, Massachusetts, Court of Federal Claims Number 02–1885V
502. Rita Black on behalf of Harmon Black, Boston, Massachusetts, Court of Federal Claims Number 02–1886V
503. Michael Farquhar on behalf of Katelyn Farquhar, Boston, Massachusetts, Court of Federal Claims Number 02–1887V
504. Rosemarie Scott on behalf of Clarita Faith Scott, Boston, Massachusetts, Court of Federal Claims Number 02–1888V
505. Thomas Marateo on behalf of Nicholas Marateo, Boston, Massachusetts, Court of Federal Claims Number 02–1889V
506. Donna Knepple on behalf of Taylor Knepple, Boston, Massachusetts, Court of Federal Claims Number 02–1890V
507. Brian Aaron on behalf of Liam Aaron, Boston, Massachusetts, Court of Federal Claims Number 02–1891V
508. Patricia and Kyle Sonnier on behalf of Benjamin Sonnier, Baton Rouge, Louisiana, Court of Federal Claims Number 02–1892V
509. Laura and Jay Stutz on behalf of Jeremy Stutz, New York, New York, Court of Federal Claims Number 02–1893V
510. Cheryl Hammonds on behalf of Myles Hammonds, Alexandria, Virginia, Court of Federal Claims Number 02–1898V
511. Misti McGill on behalf of Patric Conner, Boston, Massachusetts, Court of Federal Claims Number 02–1899V
512. Barbara Fortin on behalf of Kelly Fortin, Boston, Massachusetts, Court of Federal Claims Number 02–1900V
513. Amy Pressley on behalf of Tyler Pressley, Boston, Massachusetts, Court of Federal Claims Number 02–1901V
514. Stephen Osmon on behalf of Grant Osmon, Boston, Massachusetts, Court of Federal Claims Number 02–1902V
515. Marie Graves on behalf of Joshua Graves, Boston, Massachusetts, Court of Federal Claims Number 02–1903V
516. Cynthia Rosas on behalf of Tyler Santana, Boston, Massachusetts, Court of Federal Claims Number 02–1904V
517. Tracy Yale on behalf of Richard Logan Yale, Boston, Massachusetts, Court of Federal Claims Number 02–1905V
518. James Novorr on behalf of Jacob Novorr, Boston, Massachusetts, Court of Federal Claims Number 02–1906V
519. Melissa Coleman on behalf of Brendon King, Brockton, Massachusetts, Court of Federal Claims Number 02–1907V
520. Michelle and David Lane on behalf of Aaron Keith Lane, Dallas, Texas, Court of Federal Claims Number 02–1910V
521. Debra Abbott on behalf of Brent Abbott, Boston, Massachusetts, Court of Federal Claims Number 02–1911V
522. Cynthia Pichardo on behalf of George Pichardo, Boston, Massachusetts, Court of Federal Claims Number 02–1912V
523. Eric Thacker on behalf of Trenton Thacker, Boston, Massachusetts, Court of Federal Claims Number 02–1913V
524. Cynthia Dougherty on behalf of Matthew Dougherty, Vienna, Virginia, Court of Federal Claims Number 02–1926V
525. Cynthia Dougherty on behalf of Jennifer Dougherty, Vienna, Virginia, Court of Federal Claims Number 02–1927V
526. Anette Arthur and Peter Salmon on behalf of Peter Lothar Salmon, Jr., Brick, New Jersey, Court of Federal Claims Number 02–1928V
527. Patricia and Bradford Wheeler on behalf of Sheridan Laine Wheeler, Scottsdale, Arizona, Court of Federal Claims Number 02–1929V
528. Michele and Joel Wright on behalf of Mason Patrick Wright, Somers Point, New Jersey, Court of Federal Claims Number 02–1930V
529. Carmella and Spencer Shumate on behalf of Kenneth Spencer Shumate, Chicago, Illinois, Court of Federal Claims Number 02–1931V
530. Lisa and David Wilcox on behalf of Parker Bruce Wilcox, Lansing, Michigan, Court of Federal Claims Number 02–1932V
531. Shannon and Chad Beaty on behalf of Kade Anthony Beaty, Little Rock, Arkansas, Court of Federal Claims Number 02–1933V
532. Gisele Swanson on behalf of Mick Swanson, Portland, Oregon, Court of Federal Claims Number 02–1934V
533. Daniel Krasner and Alexandria Martins on behalf of Edward M. Martins-Krasner, Dallas, Texas, Court of Federal Claims Number 02–1935V
534. Mary Beth and Eric Williams on behalf of Samuel Williams, Vienna, Virginia, Court of Federal Claims Number 02–1938V
535. Carl Bialorucki on behalf of Bonnie Bialorucki, Boston, Massachusetts, Court of Federal Claims Number 02–1939V
536. Andrea Abraham on behalf of Jesse Abraham, Boston, Massachusetts, Court of Federal Claims Number 02–1940V
537. Carolyn Bunt on behalf of Michael Bunt, Boston, Massachusetts, Court of Federal Claims Number 02–1941V
538. Leslie Villarreal on behalf of Tyler Villarreal, Boston, Massachusetts, Court of Federal Claims Number 02–1942V
539. Deanna Wagner on behalf of Samantha Barefield, Boston, Massachusetts, Court of Federal Claims Number 02–1943V
540. Angela Vines on behalf of Colton Vines, Boston, Massachusetts, Court of Federal Claims Number 02–1944V
541. Sariah Wilson on behalf of Kaleb Wilson, Boston, Massachusetts, Court of Federal Claims Number 02–1945V
542. Deborah Haney on behalf of Allison Haney, Boston, Massachusetts, Court of Federal Claims Number 02–1946V
543. Amy Ellsworth on behalf of Daniel Ellsworth, Boston, Massachusetts, Court of Federal Claims Number 02–1947V
544. Jenni Ogden on behalf of Alexis Ogden, Boston, Massachusetts, Court of Federal Claims Number 02–1948V
545. Rebecca and Kevin Wagnon on behalf of Andrew Ryan Wagnon, Dallas, Texas, Court of Federal Claims Number 02–1949V
546. Darla and Kirk Botter on behalf of Cody Wyatt Botter, Dallas, Texas, Court of Federal Claims Number 02–1950V
547. Madeline and Robert Kennedy on behalf of Michael Jacob Kennedy, Saint Louis, Missouri, Court of Federal Claims Number 02–1951V
548. Syed Muniruzzaman on behalf of Nafessa Syed, Tyler, Texas, Court of Federal Claims Number 02–1954V
549. Wilhelmina York on behalf of Joshua York, Tyler, Texas, Court of Federal Claims Number 02–1955V
550. Laronica Smith on behalf of Quindon Jawan Wooten, Tyler, Texas, Court of Federal Claims Number 02–1956V
551. Elmer Valle on behalf of Diego Isai Valle, Tyler, Texas, Court of Federal Claims Number 02–1957V
552. Keva Washington on behalf of Kevone Maurice Washington, Tyler, Texas, Court of Federal Claims Number 02–1958V
553. Sherry Pitre on behalf of Catherine Ann Pitre, Tyler, Texas, Court of Federal Claims Number 02–1959V
554. Tracy Ball on behalf of Chase Xavier Washington, Tyler, Texas, Court of Federal Claims Number 02–1960V
555. Myrna Manco on behalf of Steven Manco, Great Neck, New York, Court of Federal Claims Number 02–1961V
556. Anna and Irving Sepulveda on behalf of Kenneth Mikale Sepulveda, New York, New York, Court of Federal Claims Number 02–1962V
557. Joseph Donohue on behalf of Sean J. Donohue, Rochester, New York, Court of Federal Claims Number 02–1963V
558. Elaine and Ronald Muthig on behalf of Joseph Muthig, Schenectady, New York, Court of Federal Claims Number 02–1964V

559. Rebecca and Timothy Gleeson on behalf of Anthony Gleeson, Harrisburg, Pennsylvania, Court of Federal Claims Number 02–1965V
560. Darlene & Nicholas Downes on behalf of Alannah Mary Downes & Sean Andrew Downes, New York, New York, Court of Federal Claims Number 02–1966V
561. Susan Zottoli on behalf of Anthony Zottoli, Meuthen, Massachusetts, Court of Federal Claims Number 02–1967V
562. Annette Farrell on behalf of Shelby G. Farrell-Romeo, Cambridge, Massachusetts, Court of Federal Claims Number 02–1968V
563. Jean M. Whelan on behalf of Daniel Joseph Whelan, Dover, New Hampshire, Court of Federal Claims Number 02–1969V
564. Jean M. Whelan on behalf of William Tierney Whelan, Dover, New Hampshire, Court of Federal Claims Number 02–1970V
565. Regina and Terry Harper on behalf of Brandon Tyler Harper, Dallas, Texas, Court of Federal Claims Number 02–1971V
566. Renea and Keith Reynolds on behalf of Benjamin Michael Reynolds, New York, New York, Court of Federal Claims Number 02–1972V
567. Celeste Hopkins, Las Vegas, Nevada, Court of Federal Claims Number 02–1973V
568. Christine Coffin on behalf of Alex Coffin, Scotia, New York, Court of Federal Claims Number 02–1975V
569. Melissa Paisley on behalf of Kareem Nelson, Manning, South Carolina, Court of Federal Claims Number 02–1976V
570. Christine Brooks on behalf of Christopher Brooks, Walterboro, South Carolina, Court of Federal Claims Number 02–1977V
571. Tracy and Joel Enzor on behalf of Natalie Danielle Enzor, Garden City, South Carolina, Court of Federal Claims Number 02–1978V
572. Mary Williams on behalf of Courtney N. Williams, Great Neck, New York, Court of Federal Claims Number 02–1979V
573. Elena Byrd on behalf of Jonathan S. Byrd, Great Neck, New York, Court of Federal Claims Number 02–1980V
574. Tracy Ranno on behalf of Dominic Ranno, Great Neck, New York, Court of Federal Claims Number 02–1981V
575. Thelma Janina Reyes and Collin Richard on behalf of Donald Carter Richard, Great Neck, New York, Court of Federal Claims Number 02–1982V
576. Bryan Weissman on behalf of Michael Weissman, Great Neck, New York, Court of Federal Claims Number 02–1983V
577. Gloria M. Masse on behalf of Alec Masse, Great Neck, New York, Court of Federal Claims Number 02–1984V
578. Edward William Shannon on behalf of Maria K. Shannon, Great Neck, New York, Court of Federal Claims Number 02–1985V
579. Desiree and Troy Feliciano on behalf of Isaiah Feliciano, Great Neck, New York, Court of Federal Claims Number 02–1986V
580. James Searle on behalf of Jonathan Emmanuel Searle, Great Neck, New York, Court of Federal Claims Number 02–1987V
581. Brenda Vactor on behalf of Julian Vactor, Great Neck, New York, Court of Federal Claims Number 02–1988V
582. Joanne Schmitt on behalf of Ryan James Sarver, Great Neck, New York, Court of Federal Claims Number 02–1989V
583. Anita M. Sherman on behalf of Benjamin Moriss Sherman, Great Neck, New York, Court of Federal Claims Number 02–1990V
584. Cheryl Stanescu on behalf of Nicholas Stanescu, Great Neck, New York, Court of Federal Claims Number 02–1991V
585. Maria and Philip Ehrlich on behalf of Brandon L.M. Ehrlich, Great Neck, New York, Court of Federal Claims Number 02–1992V
586. Angela Tresize on behalf of Travis Mathew Tresize, Great Neck, New York, Court of Federal Claims Number 02–1993V
587. Jose Montalvo and Maria Rivero on behalf of Diego Rivero, Great Neck, New York, Court of Federal Claims Number 02–1994V
588. Justina Burke on behalf of Jada Burke, Great Neck, New York, Court of Federal Claims Number 02–1995V
589. Cheryl Stanescu on behalf of Gabriella Stanescu, Great Neck, New York, Court of Federal Claims Number 02–1996V
590. Maureen Schell on behalf of Vincent Schell, Great Neck, New York, Court of Federal Claims Number 02–1997V
591. Kimberly Robert on behalf of Hannah Kay Robert, Great Neck, New York, Court of Federal Claims Number 02–1998V
592. Gloria Paria and Gustavo Rincon on behalf of Kevin Rincon, Great Neck, New York, Court of Federal Claims Number 02–1999V
593. Luwana and Russell Brown on behalf of Trevor Michael Brown, Miami, Florida, Court of Federal Claims Number 02–2000V
594. Hope and David Clayman on behalf of Jeremy Clayman, Miami, Florida, Court of Federal Claims Number 02–2001V
595. Beth and Gary Kompothecras on behalf of Jefferson Kompothecras, Miami, Florida, Court of Federal Claims Number 02–2002V
596. Wendy and Steven Bredall on behalf of Conor Bredall, Miami, Florida, Court of Federal Claims Number 02–2003V
597. Beth Ann and Lawrence Volpe on behalf of Zachary Lawrence Volpe, Miami, Florida, Court of Federal Claims Number 02–2004V
598. Idalmis Rodriguez on behalf of Emmanuel Placeres, Miami, Florida, Court of Federal Claims Number 02–2005V
599. Stephanie and Robert Taylor on behalf of Tyson Taylor, Miami, Florida, Court of Federal Claims Number 02–2006V
600. Judith and Eric Vartal on behalf of Eric Vartal, Miami, Florida, Court of Federal Claims Number 02–2007V
601. Candace and John Shanaughy on behalf of Tyler Shanaughy, Miami, Florida, Court of Federal Claims Number 02–2008V
602. Jane and Jim Mitchell on behalf of Thomas Mitchell, Miami, Florida, Court of Federal Claims Number 02–2009V
603. Monica and Patrick McAloney on behalf of John McAloney, Miami, Florida, Court of Federal Claims Number 02–2010V
604. Paula Mueller on behalf of Michael Mueller, Miami, Florida, Court of Federal Claims Number 02–2011V
605. Barbara Lupo on behalf of Michael Lupo, Miami, Florida, Court of Federal Claims Number 02–2012V
606. Maryann Rubio on behalf of Anthony J. Rubio, Miami, Florida, Court of Federal Claims Number 02–2013V
607. Deann and Gregory Sanders on behalf of Colter Lynn Sanders, Miami, Florida, Court of Federal Claims Number 02–2014V
608. Cindy and Thomas Whitby on behalf of Ronnie Whitby, Miami, Florida, Court of Federal Claims Number 02–2015V
609. Charis and Brian Wheless on behalf of Joseph Wheless, Miami, Florida, Court of Federal Claims Number 02–2016V
610. John Errington on behalf of Nicholas C. Errington, Miami, Florida, Court of Federal Claims Number 02–2017V
611. Ellen and Greg Blackburn on behalf of Aaron Blackburn, Miami, Florida, Court of Federal Claims Number 02–2018V
612. Julianna and Michael Boisvert on behalf of Benjamin Boisvert, Miami, Florida, Court of Federal Claims Number 02–2019V
613. Beth and Gary Kompothecras on behalf of Sarah Kompothecras, Miami, Florida, Court of Federal Claims Number 02–2020V
614. Christine and Todd Standish on behalf of Cara Standish, Melbourne, Florida, Court of Federal Claims Number 02–2021V
615. Donna and Larry Hardin on behalf of Mikayla A. Hardin, Melbourne, Florida, Court of Federal Claims Number 02–2022V
616. James Garner on behalf of James Garner, III, Boston, Massachusetts, Court of Federal Claims Number 02–2023V
617. Despina Novie on behalf of Damien Vaughn, Boston, Massachusetts, Court of Federal Claims Number 02–2024V
618. Ayanna Taylor on behalf of Damien Vaughn, Boston, Massachusetts, Court of Federal Claims Number 02–2025V
619. Shelly Johnson on behalf of Chase Johnson, Boston, Massachusetts, Court of Federal Claims Number 02–2026V
620. Valerie Shropshire on behalf of Jessica Brown, Houston, Texas, Court of Federal Claims Number 02–2027V
621. Mirian Green on behalf of Nigel Green, Houston, Texas, Court of Federal Claims Number 02–2028V
622. Iranus Minor Robinson on behalf of Eric Minor, Houston, Texas, Court of Federal Claims Number 02–2029V
623. Tawanda Smith on behalf of Roamond Gaulden, Jr., Houston, Texas, Court of Federal Claims Number 02–2030V
624. Lauree Hutchins on behalf of Martavious Robertson, Houston, Texas, Court of Federal Claims Number 02–2031V
625. Ethel Jackson on behalf of Charterion Moore, Houston, Texas, Court of Federal Claims Number 02–2032V
626. Vallessa Clavelle on behalf of Diamond Clavelle, Houston, Texas, Court of Federal Claims Number 02–2033V
627. Viviana and Joe Saldana on behalf of Daniel Jose Saldana, Houston, Texas, Court of Federal Claims Number 02–2034V
628. Christine and Pedro Carreira on behalf of Nicholas Carreira, Houston, Texas, Court of Federal Claims Number 02–2035V
629. Deborah and Gabriel Adames on behalf of David Adames, Houston, Texas, Court of Federal Claims Number 02–2036V
630. Denise and Paul Ventiquattro on behalf of Jordan Ventiquattro, Houston, Texas, Court of Federal Claims Number 02–2037V
631. Mary and Thomas Long on behalf of Thomas Long, III, Houston, Texas, Court of Federal Claims Number 02–2038V

632. Lynn and Matthew English on behalf of Richard English, Houston, Texas, Court of Federal Claims Number 02–2039V
633. Zahira Matos-Plemons on behalf of Joshua Cullen Plemons, Dallas, Texas, Court of Federal Claims Number 02–2040V
634. Carlos D. Robertson on behalf of Carlos D. Hinton, Hattiesburg, Mississippi, Court of Federal Claims Number 02–2041V
635. Donna Meter on behalf of Jordan Meter, Cape Coral, Florida, Court of Federal Claims Number 02–2044V
636. Nancy Cannon on behalf of Michael Cannon, Cape Coral, Florida, Court of Federal Claims Number 02–2045V
637. Stephanie and Matthew Bushak on behalf of Ryan Matthew Bushak, New York, New York, Court of Federal Claims Number 02–2046V
638. Ronald Weingarten on behalf of Noah Weingarten, Boston, Massachusetts, Court of Federal Claims Number 02–2047V
639. Parbatie and John Errington on behalf of Nicholas C. Errington, Miami, Florida, Court of Federal Claims Number 02–2048V
640. Kelly and Mark Porrey on behalf of Mark Anthony Porrey, Miami, Florida, Court of Federal Claims Number 02–2049V
641. Theresa and Joseph Herbert on behalf of Joseph David Herbert, Lake Charles, Louisiana, Court of Federal Claims Number 02–2050V
642. Kellie and Ronald Miller on behalf of Avery Hope Miller, Elizabethtown, Kentucky, Court of Federal Claims Number 02–2051V
643. Claudia and Michael Popson on behalf of Jeremy Thomas Popson, Louisville, Kentucky, Court of Federal Claims Number 02–2052V
644. Lisa and A. Tom Canady on behalf of Daniel T. Canady, Baton Rouge, Louisiana, Court of Federal Claims Number 02–2053V
645. Jeannie Wakelyn-Boyce and John Boyce on behalf of Adam Grayson Boyce, Newport News, Virginia, Court of Federal Claims Number 02–2054V
646. Jeannie Wakelyn-Boyce and John Boyce on behalf of Austin Michael Boyce, Newport News, Virginia, Court of Federal Claims Number 02–2055V
647. Tonja and James Callender on behalf of James Callender, Jr., Baton Rouge, Louisiana, Court of Federal Claims Number 02–2056V
648. Caroline and Matthew Maddock on behalf of Nicholas Maddock, Haslet, Texas, Court of Federal Claims Number 02–2057V
649. John Cloar on behalf of Thomas Jake Cloar, Mayfield, Kentucky, Court of Federal Claims Number 02–2058V
650. Amy Holmes and Charles Weinstein on behalf of Michael D. Weinstein, Baton Rouge, Louisiana, Court of Federal Claims Number 02–2059V
651. Ginger and Dennis Brown on behalf of Robert Lee Brown, Columbus, Indiana, Court of Federal Claims Number 02–2060V
652. Jodie and Tommy Cockrell on behalf of Joseph Kaye Cockrell, Bossier City, Louisiana, Court of Federal Claims Number 02–2061V
653. Sandra Bryant on behalf of Laura Elizabeth Bryant, Saint Francisville, Louisiana, Court of Federal Claims Number 02–2062V
654. Rita and Robert Parry on behalf of Robert J. Parry, Houston, Texas, Court of Federal Claims Number 02–2063V
655. Kathy Jo and Phil Boriskie on behalf of Matthew Boriskie, Houston, Texas, Court of Federal Claims Number 02–2064V
656. Jaunice and A. Lamar Glaze on behalf of Johnathan Christopher Glaze, Hattiesburg, Mississippi, Court of Federal Claims Number 02–2065V
657. Jaunice and A. Lamar Glaze on behalf of Matthew Jameson Glaze, Hattiesburg, Mississippi, Court of Federal Claims Number 02–2066V
658. Jaunice and A. Lamar Glaze on behalf of Lauren Alexandra Glaze, Hattiesburg, Mississippi, Court of Federal Claims Number 02–2067V
659. Toni and Todd Marks on behalf of Tad Nelson Marks, Baton Rouge, Louisiana, Court of Federal Claims Number 02–2068V
660. Erin Holmes on behalf of Jacob Holmes, Deceased, Clark County, Nevada, Court of Federal Claims Number 02–2069V
661. Jami Nelson on behalf of River Gene White, Tyler, Texas, Court of Federal Claims Number 02–2070V
662. Kimberly Campbell on behalf of Dillon Campbell, Tyler, Texas, Court of Federal Claims Number 02–2071V
663. Michael Sammons on behalf of Cody Michael Sammons, Tyler, Texas, Court of Federal Claims Number 02–2072V
664. Suzanne Robinson on behalf of Celeste Angelie Robinson, Tyler, Texas, Court of Federal Claims Number 02–2073V
665. Chiniqua Ward-Newsome on behalf of Jalen Jaamal Newsome, Tyler, Texas, Court of Federal Claims Number 02–2074V
666. Kimberly Campbell on behalf of Corey Campbell, Tyler, Texas, Court of Federal Claims Number 02–2075V
667. Amy Blubaugh and Kelly Tanner on behalf of Dalton Tanner-Blubaugh, Cape Girardeau, Missouri, Court of Federal Claims Number 02–2076V

Dated: May 16, 2003.

Elizabeth M. Duke,

Administrator.

[FR Doc. 03–12773 Filed 5–20–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel. Preclinical Toxicology of New Cancer Preventing Agents.

Date: June 24, 2003.

Time: 8 AM to 6 PM.

Agenda: To review and evaluate contract proposals.

Place: Bethesda, Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Lalita D. Palekar, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8105, Bethesda, MD 20892–7405, (301) 496–7575.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–12754 Filed 5–20–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant application, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Network of Translational Research; Optical Imaging.

Date: June 26–27, 2003.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Joyce C. Pegues, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7149, Bethesda, MD 20892. 301/594–1286.

Name of Committee: National Cancer Institute Special Emphasis Panel, Consortium Therapeutic Studies of Primary Central Nervous System Malignancies in Adults.

Date: July 2, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Timothy C. Meeker, MD, Scientific Review Administrator, Special Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8088, Rockville, MD 20852. 301/594–1279.

Name of Committee: National Cancer Institute Special Emphasis Panel, Behavioral Research in Cancer Control.

Date: July 8, 2003.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852. (Telephone conference call.)

Contact Person: Mary Jane Slesinski, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramual Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8045, Bethesda, MD 20892. 301/594–1566.

Name of Committee: National Cancer Institute Special Emphasis Panel, Prevention Research and Epidemiology.

Date: July 29–30, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Mary Jane Slesinski, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institute of Health, 6116 Executive Boulevard, Room 8045, Bethesda, MD 20892. 301/594–1566.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS.)

Dated: May 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–12756 Filed 5–20–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Board of Scientific Advisors.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Board of Scientific Advisors.

Date: June 26–27, 2003.

Time: June 26, 2003, 8 AM to 6 PM.

Agenda: Director's Report; Ongoing and New Business; Reports of Program Review Group(s); and Budget Presentation; Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6 Floor, Conference Room 10, Bethesda, MD 20892.

Time: June 27, 2003, 8:30 AM to 6 PM.

Agenda: Ongoing and New Business; Reports of Program Review Group(s); and Budget Presentation; Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6 Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Paulette S. Gray, PhD, Executive Secretary, Acting Director, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, RM. 8141, Bethesda, MD 20892, 301–496–4218.

Information is also available on the Institute's/Center's home page: *deainfo.nci.nih.gov/advisory/bsa.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–12758 Filed 5–20–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Services Review Committee.

Date: June 11–12, 2003.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

Contact Person: Henry J. Jaigler, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, (301) 443–7216, *hhaigler@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93–242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–12753 Filed 5–20–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NICHD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Child Health and Human Development, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NICHD.

Date: June 6, 2003.

Open: 8 a.m. to 11 a.m.

Agenda: To review and discuss current NICHD intramural research activities.

Place: National Institutes of Health, Building 31, Conference Room 2A48, Bethesda, MD 20892.

Closed: 11 a.m. to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, Conference Room 2A48, Bethesda, MD 20892.

Contact Person: Owen M. Rennert, MD, Scientific Director, National Institute of Child Health and Human Development, 9000 Rockville Pike, Building 31, Room 2A50, Bethesda, MD 20892. (301) 496–2133. *rennerto@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *www.nichd.nih.gov/about/bsd/htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS.)

Dated: May 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–12755 Filed 5–20–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Initial Review Group, Biological Aging Review Committee.

Date: June 2–3, 2003.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: James P. Harwood, PhD, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892. (301) 496–9666. *harwoodj@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Initial Review Group, Neuroscience of Aging Review Committee.

Date: June 2–3, 2003.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Louise L. Hsu, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892. (301) 496–9666. *hsul@exmur.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel, Alzheimer's Disease Clinical Trial.

Date: June 6, 2003.

Time: 9 a.m. to 11 a.m.

Agenda: to review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue 2C212, Bethesda, MD 20814. (Telephone conference call.)

Contact Person: Ramesh Vemuri, PhD, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Ave., Suite 2C212, Bethesda, MD 20892. 301–402–7700. *rv23r@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Initial Review Group, Behavior and Social Science of Aging Review Committee. NIA–S COMMITTEE.

Date: June 12–13, 2003.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101, Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Alfonso R. Latoni, PhD, Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Gateway Building, 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892. 301/496–9666. *latonia@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Reseach, National Institutes of Health, HHS.)

Dated: May 15, 2003.

Anna Snouffer,

Aging Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–12757 Filed 5–20–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4815–N–26]

Notice of Submission of Proposed Information Collection to OMB: Housing for Older Persons Exemption for Familial Status Discrimination

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:* June 20, 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 (2529–0046) 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: Housing for Older Persons exemption for familial status discrimination.

OMB Approval Number: 2529–0046.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: This information collection supports an allowance for housing providers to claim exemption to the familial status provision of the Fair Housing Act, as amended by the Housing for Older Persons Act of 1995.

Respondents: Business or other for-profit, not-for-profit institutions, State, Local or Tribal Government.

Frequency of Submission: Other upon declaring housing for older persons; upon receipt of a familial status complaint, on occasion.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting burden	12,000		1		0.45		5,500

Total Estimated Burden Hours: 5,500.

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: May 14, 2003.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 03–12682 Filed 5–20–03; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4818–N–05]

Notice of Proposed Information Collection for Public Comment: Extension of Survey of Housing Conditions for Households Living in Federally-Assisted Units

AGENCY: Office of the Assistant Secretary for Policy Development and Research, 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:* July 21, 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: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410–6000.

FOR FURTHER INFORMATION CONTACT: Barbara Haley, 202–708–5537, ext. 5708 (this is not a toll-free number), for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). 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: Extension of Survey of Housing Conditions for Households Living in Federally-Assisted Units.

OMB Control Number: 2528–0170 (exp. 02/21/04).

Description of the Need for the Information and Proposed Use: HUD developed and tested a cost-effective mail survey instrument for assessing the condition of housing units assisted through HUD's Choice Voucher Program (formerly known as section 8). The pilot survey, which elicited renters' ratings of their housing, provided high levels of agreement with independent condition ratings by professional inspectors. HUD implements the survey as an ongoing tool to assess customer ratings of the condition of housing assisted through the Housing Choice Voucher Program. This survey helps HUD focus its monitoring and technical assistance resources on property owners and

housing authorities whose performance most need improvement. It also provides policy and program managers with valid measures for tracking housing conditions over time.

Agency Form Numbers: None.

Members of the Affected Public: Households residing in units receiving assistance from the Housing Choice Voucher Program.

Estimation of the Total Number of Hours Needed to Prepare the Information Collection Including Number of Respondents, Frequency of Response, and Hours of Response: Information will be collected by a periodic mail survey of 259,000 of the 1.8 million households who live in housing units assisted through the Housing Choice Voucher Program. Based on the first year of data collection, a 62 percent response rate is expected. The survey will take approximately 15 minutes to complete. This means a total of 40,145 hours of response time annually is expected for the information collection.

Status of the Proposed Extension of Information Collection: Pending submission to the Office of Management and Budget (OMB).

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, as amended.

Dated: May 14, 2003.

Christopher D. Lord,

Deputy Assistant Secretary for Policy Development.

[FR Doc. 03–12684 Filed 5–20–03; 8:45 am]

BILLING CODE 4210–62–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Noxubee National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability of the Draft Comprehensive Conservation Plan and Environmental Assessment for Noxubee National Wildlife Refuge located in Noxubee, Oktibbeha, and Winston Counties, Mississippi.

SUMMARY: The Fish and Wildlife Service announces that a Draft Comprehensive Conservation Plan and Environmental Assessment for Noxubee National Wildlife Refuge are available for review and comment. These documents have been prepared pursuant to the National Wildlife Refuge System Improvement Act of 1997, and the National Environmental Policy Act of 1969, and describe the Service's proposal for managing the refuge over the next 15 years. Proposed goals for the refuge include:

- Perpetuating a diversity of high quality, more natural-like communities as habitats for trust and resident species;
- Continuing to protect, maintain, and enhance native plant and animal species;
- Improving conditions for fish, wildlife, habitats, special management areas, and wilderness through the use of current land protection programs, laws, policies, and partnerships;
- Developing recreation and education opportunities that promote fish and wildlife conservation consistent with the Service's mission and policies, and the purpose for which the refuge was established;
- Protecting the cultural resources of the refuge; and
- Developing and maintaining a comprehensive refuge facility responsive to supporting the management of fish and wildlife resources, and the safety and experience of refuge visitors.

Also available for review are the draft compatibility determinations for recreational hunting, recreational fishing, wildlife observation and photography, environmental education and interpretation, forest habitat management, haying, and research and collections.

Proposed Action

The proposed action is to adopt and implement a comprehensive conservation plan for the refuge that best achieves the refuge's purpose, vision, and goals; contributes to the National Wildlife Refuge System mission; addresses the significant issues and relevant mandates; and is consistent with principles of sound fish and wildlife management. The Service analyzed three alternatives for future management of the refuge and chose Alternative 2, as the one to best achieve all of these elements.

Alternatives

The draft comprehensive conservation plan and environmental assessment evaluates the three alternatives for managing the refuge over the next 15 years. These alternatives are briefly described as follows:

Alternative I represents the status quo; *e.g.*, no changes from current management of the refuge. The refuge would continue with its existing forest management plan that emphasizes older age classes of trees and late successional wildlife communities. Waters and wetlands would be managed under current policies. Cultural resources would be protected at current levels.

Under Alternative 2, the Service's proposed action, wildlife and habitat would be managed with emphasis on old growth forest communities, and increasing emphasis on education and recreation programs. Refuge programs provide the public with an opportunity to learn about, enjoy, and appreciate fish and wildlife. these programs include hunting, fishing, wildlife observation and photography, and environmental education and interpretation. Deer hunting opportunities would continue in order to manage the population, and small game and waterfowl hunting opportunities would continue as well. Game fish populations at Bluff and Loakfoma lakes would be maintained to support an annual average of 13,000 angler-use days through natural reproduction, habitat management, regulated harvest, and stocking when appropriate. Under this alternative, the refuge would seek to maintain and improve overlooks, boardwalks and trails, and provide special guided and education program tours each season, with an objective of increasing interpretation activities to at least 15 events annually. The refuge would coordinate with the local school district and others to share expertise, host meetings at the environmental education center, refuge outdoor classroom, and off-site locations to support 15,000 students annually. This alternative emphasizes providing habitat for forest nesting birds dependent on mature hardwood forests and adequate habitat for resident and migratory waterfowl. Current partnerships that assist the refuge in accomplishing its conservation objectives would continue under this alternative, as would coordination with the Service's private lands' biologist to implement the Partners for Fish and Wildlife Program with local landowners and other conservation groups. Communication with local landowners and community groups would continue in order to promote wildlife conservation. A comprehensive cultural resources' survey would be conducted, and protection and interpretation of cultural resources would be improved.

Alternative 3 emphasizes providing early successional forest habitat and increases in certain education and recreation programs. Forest management of pine and pine/hardwood forests would be directed towards providing old growth adequate to support the refuge's goal for the redcockaded woodpecker, and for providing early successional habitat for neotropical migratory birds and certain game

species. Management of the hardwood forest would also be directed towards providing early successional habitat.

Actions Common to All Alternatives

All three alternatives share the following management concepts and techniques for achieving the goals of the refuge:

- Restoring native habitats;
- Establishing, maintaining, and improving partnerships with landowners and local, state, and federal agencies and organizations;
- Coordinating management actions with local and state land and resource management agencies;
- Monitoring breeding red-cockaded woodpecker populations in partnership with others;
- Removing non-native invasive plants;
- Encouraging scientific research on the refuge; and
- Exploring expansion of the refuge boundary.

DATES: A meeting will be held at the refuge's education center to present the plan to the public. Mailings, newspaper articles, and postings on the refuge website will be the avenues to inform the public of the date and time for this meeting. Individuals wishing to comment on the Draft Comprehensive Conservation Plan and Environmental Assessment for Noxubee National Wildlife Refuge should do so within 60 days following the date of this notice. Public comments were requested, considered, and incorporated throughout the planning process in numerous ways. Public outreach has included public scoping meetings, technical workgroups, planning updates and a **Federal Register** notice.

ADDRESSES: Comments on the Draft Comprehensive Conservation Plan and Environmental Assessment should be addressed to Refuge Manager, Noxubee National Wildlife Refuge, 224 Office Road, Brooksville, Mississippi 39739. Comments may also be submitted via electronic mail to *Noxubee@fws.gov.* If you wish to submit comments by electronic mail, please submit them as an ASCII file, avoiding the use of special characters and any form of encryption. Please include your name and return address to your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us at the phone number or address listed in this notice. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individuals respondents may request that we withhold their home addresses from the record, which we will honor to the extent allowable by law.

SUPPLEMENTARY INFORMATION: Noxubee National Wildlife Refuge, located in east-central Mississippi, consists of 47,959 acres, of which 42,500 acres are in bottomland hardwood, upland hardwood, mixed pine/hardwood, and pine forests. These forests support a variety of upland species including turkey, deer, and quail. The endangered red-cockaded woodpecker is found in the refuge's old-growth pine habitat. Many neotropical bird species benefit from refuge forests. Greentree reservoirs, natural ponds, and man-made impoundments provide important habitat for other migratory birds, as well as wintering habitat for waterfowl and bald eagles.

Annually, more than 150,000 visitors participate in refuge activities, including fishing, hunting, hiking, wildlife photography, wildlife observation, and environmental education and interpretation.

FOR FURTHER INFORMATION CONTACT: Refuge Manager, Noxubee National Wildlife Refuge at 662/323–5548; fax 662/323–5806, or by writing to the Refuge Manager at the above address.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: May 14, 2003.

J. Mitch King,

Acting Regional Director.

[FR Doc. 03–12710 Filed 5–20–03; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Harley John Reservoir Replacement in Riverside County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: Western Municipal Water District (Applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973, as amended. The Service is considering issuing a 3-year permit to the Applicant that would authorize take of the threatened coastal California gnatcatcher (*Polioptila californica californica,* ''gnatcatcher'') incidental to otherwise lawful activities associated with the replacement of an existing 300,000 gallon water tank reservoir with a 4 million gallon reservoir on 2.7 acres in Riverside County, California. The project would result in the incidental take of one pair of gnatcatchers on the project site through permanent removal of approximately 2.3 acres of habitat.

We request comments from the public on the permit application and an Environmental Assessment, both of which are available for review. The permit application includes the proposed Habitat Conservation Plan (HCP) and an accompanying Implementing Agreement. The HCP describes the proposed action and the measures that the Applicant will undertake to minimize and mitigate take of the gnatcatcher. To review the permit application or Environmental Assessment, see ''Availability of Documents'' in the **SUPPLEMENTARY INFORMATION** section.

DATES: We must receive your written comments on or before July 21, 2003.

ADDRESSES: Please address written comments to Mr. Jim Bartel, Field Supervisor, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, California 92009. You also may send comments by facsimile to (760) 918–0638.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Evans, Assistant Field Supervisor, at the above address or call (760) 431–9440.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of these documents for review by contacting the Assistant Field Supervisor (**FOR FURTHER INFORMATION CONTACT**). Documents also will be available for public inspection, by appointment, during normal business hours at the above address (*see* **ADDRESSES**) and at the Woodcrest Library, Riverside County Library System, 17024 Van Buren Blvd., Riverside, California.

Background

Section 9 of the Act and federal regulations prohibit the ''take'' of fish and wildlife species listed as endangered or threatened. Take of federally listed fish and wildlife is defined under the Act as including to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' The Service may, under limited circumstances, issue permits to

authorize incidental take (*i.e.*, take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). Regulations governing incidental take permits for threatened species are found in 50 CFR 17.32.

The Applicant proposes to replace an existing 300,000-gallon reservoir with a 4-million gallon reservoir on 2.7 acres. The project site is located approximately one-quarter mile west of Harley John Road, two-thirds of a mile north of Cajalco Road, one-half mile east of El Sobrante Road, and one-quarter mile south of Scottsdale Drive, in Riverside County, California. The existing water tank has been in use for approximately 40 years. The project site occurs at the northern periphery of the Lake Mathews Estelle Mountain Reserve. Rural residences and orchards exist southeast of the site. The project site contains and is adjacent to gnatcatcher habitat within the Lake Mathews region. The project site does not occur within gnatcatcher proposed critical habitat.

One pair of gnatcatchers and a juvenile were detected during surveys conducted according to Service protocol in 1994, 1999, and 2000. Based on these survey results, the Service concluded that implementation of the proposed project will likely result in take of one pair of gnatcatchers through the permanent removal of 2.3 acres of vegetation on the 2.7-acre site.

The federally endangered Quino checkerspot butterfly (*Euphydryas editha quino*) was not detected on the project site during a survey conducted in 1999. The federally endangered Stephens' kangaroo rat (*Dipodomys stephensi*) may occupy portions of the proposed project site; however, no Stephens' kangaroo rat surveys have been conducted at the project site. Because the proposed project site occurs within the plan area boundary of the Habitat Conservation Plan for the Stephens' Kangaroo Rat in Western Riverside County, California (March 1996), compliance with this Plan and its associated implementation agreement will be required prior to any ground-disturbing activities.

To mitigate take of gnatcatchers on the project site, the Applicant proposes to purchase 7 credits towards conservation in perpetuity of 7 acres of gnatcatcher habitat, composed of riversidean sage scrub vegetation, from an off-site conservation bank in western Riverside County. The conservation bank collects fees supporting a management endowment to ensure the permanent management and monitoring of sensitive species and habitats, including the gnatcatcher, within the area protected by the bank.

Although not reflected in the HCP and Implementing Agreement available for public comment, we anticipate that the conservation bank landowner and land manager will be signatories to the Agreement, committing to the protection, management, and monitoring of the conservation bank lands to conserve riversidean sage scrub habitat and gnatcatchers in perpetuity.

The Service's Environmental Assessment considers the environmental consequences of two alternatives, including: (1) The Proposed Project Alternative, which consists of issuance of the incidental take permit and implementation of the HCP and Implementing Agreement; and (2) the No Action Alternative, which consists of no permit issuance and no replacement of the reservoir at this time. The alternative to the Proposed Project Alternative would result in less long-term conservation for the gnatcatcher within western Riverside County, as it would not contribute as much, or at all, to conservation of areas within habitat being considered by the Service and local agencies for long-term conservation of the species.

This notice is provided pursuant to section 10(a) of the Act and the regulations of the National Environmental Policy Act (NEPA) of 1969 (40 CFR 1506.6). All comments that we receive, including names and addresses, will become part of the official administrative record and may be made available to the public. We will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the Act. If we determine that those requirements are met, we will issue a permit to the Applicant for the incidental take of the gnatcatcher. We will make our final permit decision no sooner than 60 days after the date of this notice.

Dated: May 14, 2003.

Ken McDermond,

Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 03–12679 Filed 5–20–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–260–09–1060–00–24 1A]

Wild Horse and Burro Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of meeting.

SUMMARY: The Bureau of Land Management (BLM) announces that the Wild Horse and Burro Advisory Board will conduct a meeting on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands.

DATES: The Advisory Board will meet Monday, June 16, 2003, from 8 a.m., to 5 p.m., local time, and on Tuesday, June 17, 2003, from 8 a.m., to 3 p.m., local time.

ADDRESSES: The Advisory Board will meet at the Sheraton Billings Hotel, 27 N. 27th Street, Billings, MT, phone 406–252–7400.

Written comments pertaining to the Advisory Board meeting should be sent to: Bureau of Land Management, National Wild Horse and Burro Program, WO 260, Attention: Ramona Delorme, 1340 Financial Boulevard, Reno, Nevada, 89502–7147. Submit written comments pertaining to the Advisory Board meeting no later than close of business June 6, 2003. *See* **SUPPLEMENTARY INFORMATION** section for electronic access and filing address.

FOR FURTHER INFORMATION CONTACT: Janet Nordin, Wild Horse and Burro Public Outreach Specialist, 775–861–6583. Individuals who use a telecommunications device for the deaf (TDD) may reach *Ms. Nordin* at any time by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Public Meeting

Under the authority of 43 CFR part 1784, the Wild Horse and Burro Advisory Board advises the Secretary of the Interior, the Director of the BLM, the Secretary of Agriculture, and the Chief, Forest Service, on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands. The tentative agenda for the meeting is:

Monday, June 16, 2003 (8 a.m.–5 p.m.)

8 a.m.—Call to Order & Introductions:
8:15 a.m.—Old Business:
8:45 a.m.—Program Update
9 a.m.—Status of WH&B Strategic Plan
9:30 a.m.—Break

9:45 a.m.—Old Business (continued):
10:45 a.m.—Report on ''Reaching AML by 2005: A Mid-Course Review
12:30 p.m.—Lunch
1:30 p.m.—Old Business (continued):
2:30 p.m.—Break
2:45 p.m.—Old Business (continued):
4 p.m.—Public Comments
4:45 p.m.—Recap/Summary
5–6 p.m.—Adjourn: Roundtable Discussion

Tuesday, June 17, 2003 (8 a.m.–3 p.m.)

8 a.m.—New Business:
Break—(9:45 a.m.–10 a.m.)
10 a.m.—Organizational Discussion on Advisory Board Hosted Symposium
12 p.m.—Lunch
1 p.m.—Board Recommendations
2:30 p.m.—Next Meeting/Date/Site
3 p.m.—Adjourn

The meeting site is accessible to individuals with disabilities. An individual with a disability needing an auxiliary aid or service to participate in the meeting, such as interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the scheduled meeting date. Although the BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

The Federal advisory committee management regulations [41 CFR 101–6.1015(b),] require BLM to publish in the **Federal Register** notice of a meeting 15 days prior to the meeting date.

II. Public Comment Procedures

Members of the public may make oral statements to the Advisory Board on June 16, 2003, at the appropriate point in the agenda. This opportunity is anticipated to occur at 4 p.m., local time. Persons wishing to make statements should register with the BLM by noon June 16, 2003, at the meeting location. Depending on the number of speakers, the Advisory Board may limit the length of presentations. At previous meetings, presentations have been limited to three minutes in length. Speakers should address the specific wild horse and burro-related topics listed on the agenda. Speakers must submit a written copy of their statement to the address listed in the **ADDRESSES** section or bring a written copy to the meeting.

Participation in the Advisory Board meeting is not a prerequisite for submission of written comments. The BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. The BLM appreciates any and all comments, but those most useful and likely to influence decisions on management and protection of wild horses and burros are those that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and regulations. Except for comments provided in electronic format, speakers should submit two copies of their written comments where feasible. The BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom of Information Act (FOIA) for a copy of your comments, the BLM will make them available in their entirety, including your name and address. However, if you do not want the BLM to release your name and address in response to a FOIA request, you must state this prominently at the beginning of your comment. The BLM will honor your request to the extent allowed by law. The BLM will release all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, in their entirety, including names and addresses.

Electronic Access and Filing Address

Speakers may transmit comments electronically via the Internet to: *Janet_Nordin@blm.gov.* Please include the identifier ''WH&B'' in the subject of your message and your name and address in the body of your message.

Dated: May 15, 2003.

Bud Cribley,

Acting Deputy Assistant Director, Renewable Resources and Planning.

[FR Doc. 03–12680 Filed 5–20–03; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0041).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR 250, Subpart K, ''Oil and Gas Production Rates.'' This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by June 20, 2003.

ADDRESSES: You may submit comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0041), 725 17th Street, NW., Washington, DC 20503. Mail or hand-carry a copy of your comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. If you wish to e-mail your comments to MMS, the address is: *rules.comments@MMS.gov.* Reference Information Collection 1010–0041 in your subject line and mark your message for return receipt. Include your name and return address in your message text.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Rules Processing Team, telephone (703) 787–1600. You may also contact Arlene Bajusz to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, Subpart K, Oil and Gas Production Rates.

OMB Control Number: 1010–0041.

Abstract: The Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1331 *et seq.*, gives the Secretary of the Interior (Secretary) the responsibility to preserve, protect, and develop oil and gas resources in the OCS, consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resource development with protection of the human, marine, and coastal environments; ensure the public a fair and equitable return on the resources of the OCS; and preserve and maintain free enterprise competition. Section 1334(g)(2) states '' * * * the lessee shall produce such oil or gas, or both, at rates * * * to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan.''

Regulations at 30 CFR part 250, subpart K, implement these statutory requirements. We use the information collected to determine if produced gas can be put to beneficial use economically, to analyze the risks of transporting the liquid hydrocarbons against the value of the resource, and to account for volumes of flared gas and burned liquid hydrocarbons. The MMS uses the information in its efforts to conserve natural resources, prevent waste, and protect correlative rights including the Government's royalty interest. Specifically, MMS uses the information to review records of burning liquid hydrocarbons and venting and flaring actions to ensure that they are not excessive; to determine maximum production and maximum efficient rates; to compare the volume of hydrogen sulfide (H_2S) flared and the sulphur dioxide (SO_2) emitted with the specified amounts in approved contingency plans; to monitor monthly atmospheric emissions of SO_2 for air quality; to review applications for downhole commingling to ensure that action does not result in harm to ultimate recovery or undervalued royalties.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR 250.196. No items of a sensitive nature are collected. Responses are mandatory.

Frequency: On occasion and monthly.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and gas lessees.

Estimated Reporting and Recordkeeping ''Hour'' Burden: The estimated annual ''hour'' burden for this information collection is a total of 15,636 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 subpart K	Reporting & recordkeeping requirement	Hour burden	Average No. annual responses	Annual burden hours
1101(b)	Request approval to produce within 500 feet of a lease line	5	21 requests	105
1101(c)	Request approval to produce gas cap of a sensitive reservoir	12	125 requests	1,500
1102	Submit forms MMS–0 126, MMS–127, and MMS–128—burden covered under 1010–0039, 1010–0018, and 1010–0017.			0
1102(a)(5)	Submit alternative plan for overproduction status—MMS is not currently collecting this information.			0
1102(b)(6)	Request extension of time to submit results of semiannual well test.	½	37 requests	19
1103(a)	Request approval of test periods of less than 4 hours and pretest stabilization periods of less than 6 hours.	½	37 requests	19
1103(c)	Provide advance notice of time and date of well tests	½	10 notices	5
1104(c)	Submit results of all static bottomhole pressure surveys obtained by lessee. Information is submitted on form MMS–140 in the Gulf of Mexico Region.	1	1,235 surveys	1,235
1105(a), (b)	Request special approval to flare or vent oil-well gas	½	506 requests	253
1105(c)	Request approval to burn produced liquid hydrocarbons	½	60 requests	30
1105(f)	Submit monthly reports of flared or vented gas containing H_2S	2	3 operators × 12 mos. = 36	72
1105(f)	H_2S Contingency, Exploration, or Development and Production Plans—burden covered under 1010–0053 and 1010–0049.			0
1106	Submit application to commingle hydrocarbons produced from multiple reservoirs and inform other lessees having an interest.	6	118 applications	708
1107(b)	Submit proposed plan for enhanced recovery operations	12	24 plans	288
1107(c)	Submit periodic reports of volumes of oil, gas, or other substances injected, produced, or reproduced.	2	67 reports	134
1100–1107	General departure or alternative compliance requests not specifically covered elsewhere in subpart K, including bottomhole pressure survey waivers and reservoir reclassification requests.	1 6	120 survey waivers 20 requests	120 120
Reporting Subtotal			**2,416**	**4,608**
1105(d), (e)	Maintain records for 2 years detailing gas flaring or venting.	13	846 platforms	10,998
1105(d), (e)	Maintain records for 2 years detailing liquid hydrocarbon burning.	½	60 occurences	30
Recordkeeping Subtotal			130 Recordkeepers	11,028
Total Burden			2,546	15,636

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have identified no cost burdens for this collection.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency '' * * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on December 6,

2002, we published a **Federal Register** notice (67 FR 72693) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 250.199 provides the OMB control number for the information collection requirements imposed by the 30 CFR 250 regulations and forms. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by June 20, 2003.

Public Comment Policy: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by the law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: March 11, 2003.

E. P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 03–12693 Filed 5–20–03; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

RIN 1010–AB57

Major Portion Prices and Due Dates for Additional Royalty Payments on Indian Gas Production in Designated Areas Not Associated With an Index Zone

AGENCY: Minerals Management Service.

ACTION: Notice; correction.

SUMMARY: The Minerals Management Service published a document in the **Federal Register** of April 29, 2003, concerning major portion prices and due dates for additional royalty payments on Indian gas production in designated areas not associated with an index zone. Information was erroneously omitted from the table.

FOR FURTHER INFORMATION CONTACT: John Barder, 303–231–3702.

Correction

In the **Federal Register** of April 29, 2003, in FR Doc. 03–10534, on page 22736, the second entry of the table is corrected to read:

MMS-designated areas	October 2001 (MMBtu)	November 2001 (MMBtu)	December 2001 (MMBtu)
Ute Allotted Leases in the Uintah and Ouray Reservation	0.90	2.32	1.90

Dated: May 15, 2003.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 03–12714 Filed 5–20–03; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0061 and 1029–0110

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request renewed approval for the collections of information for 30 CFR part 795, Permanent Regulatory Program—Small Operator Assistance Program (SOAP), and two technical training program course effectiveness evaluation forms. These collection requests have been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection requests describe the nature of the information collections and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by June 20, 2003, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of either information collection request, explanatory information and related forms, contact John A. Trelease at (202) 208–2783, or electronically to *jtreleas@osmre.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). OSM has submitted two requests to OMB to renew its approval of the collections of information contained in: 30 CFR 795, Permanent Regulatory Program—Small Operator Assistance Program (SOAP); and two technical training program course effectiveness evaluation forms. OSM is requesting a 3-year term of approval for each information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for these collections of information are 1029–0061 for Part 795, and 1029–0110 for the technical training effectiveness evaluation forms.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on January 23, 2003 (68 FR 3266). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activities;

Title: 30 CFR Part 795—Permanent Regulatory Program—Small Operator Assistance Program.

OMB Control Number: 1029–0061.

Summary: This information collection requirement is needed to provide assistance to qualified small mine operators under section 507(c) of Pub. L. 95–87. The information requested will provide the regulatory authority with data to determine the eligibility of the applicant and the capability and expertise of laboratories to perform required tasks.

Bureau Form Number: FS–6

Frequency of Collection: Once per application.

Description of Respondents: Small operators, laboratories, and State regulatory authorities.

Total Annual Responses: 156.

Total Annual Burden Hours: 7,373 hours.

Title: Technical Training Program Course Effectiveness Evaluation.

OMB Control Number: 1029–0100.

Summary: Executive Order 12862 requires agencies to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services. The information supplied by this evaluation will determine customer satisfaction with OSM's training program and identify needs of respondents.

Bureau Form Number: None.

Frequency of Collection: On occasion.

Description of Respondents: State regulatory authority and tribal employees and their supervisors.

Total Annual Responses: 315.

Total Annual Burden Hours: 53 hours.

Send comments on the need for the collections of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collections; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the following addresses. Please refer to OMB control number 1029–0061 for part 795, and 1029–0110 for the technical training effectiveness evaluation forms.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, by fax at (202) 395–5806 or via e-mail to *Ruth_Solomon@omb.eop.gov.* Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 210—SIB, Washington, DC 20240, or electronically to *jtreleas@osmre.gov.*

Dated: May 16, 2003.

Richard G. Bryson,

Acting Assistant Director, Program Support.

[FR Doc. 03–12772 Filed 5–20–03; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services FY 2003 Community Policing Discretionary Grants

AGENCY: Office of Community Oriented Policing Services, Department of Justice.

ACTION: Notice of funding availability.

SUMMARY: The U.S. Department of Justice Office of Community oriented Policing Services (COPS Office) is seeking proposals to fund a variety of initiatives designed to enhance local law enforcement community policing efforts. This solicitation provides background on the COPS Office and outlines the types of projects and programs the Office is interested in funding through grants or cooperative agreements. The solicitation should be of particular interest to law enforcement agencies, universities, and profit and non-profit institutions with an interest in an experience with community policing. The purpose of this solicitation is to provide funding for community policing efforts through their direct enhancement, the development of products, tools, or applied research that will facilitate their adoption and implementation and/or the development of training and technical assistance. This solicitation is being announced as an open competition. Awardees will be expected to begin work immediately upon selection.

Background: Since 1994, the U.S. Department of Justice Office of Community Oriented Policing Services has been the Federal government office whose unique mission it is to directly serve the needs of local law enforcement. COPS is responsible for making grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia with the goals of increasing police presence, expanding and improving cooperative efforts between law enforcement agencies and members of the community, supporting innovative community policing projects, and otherwise enhancing public safety through reductions in crime and social disorder.

The COPS Office has awarded grants to more than 13,000 policing agencies across the country and has provided funding for over 116,000 officers through direct hiring grants and the redeployment of officers through the purchase of time-saving technology and the hiring of civilians. The Office has also funded a wide-variety of innovative policing grants to combat crime and enhance public safety.

Innovative grants have included funding to foster collaborative problem-solving between police and community-based agencies or schools, engaging faith based communities, domestic violence response and prevention, 311 systems, anti-gang efforts, and methamphetamine reduction. The COPS Office has also funded the creation of 31 Regional Community Policing Institutes (RCPIs) to foster training in community policing at the regional level. The Office has a history of producing practical and useable products and publications for the law enforcement field. Additional information regarding the COPS Office can be found at *www.cops.usdoj.gov.*

Funding Availability and Applicant Criteria: Depending on the fundability of proposals received by the COPS Office, funding amounts may be increased or decreased within categories. In addition, all categories/parts may not receive funding based upon the quality of applications. Additional projects may be funded from this solicitation with fiscal year 2004 appropriations if such appropriations are forthcoming. Grants or cooperative agreements will be awarded for a minimum of a one-year grant period and a maximum of a two-year grant period.

The COPS Office is seeking proposals under an Open Topic area where applicants are encouraged to develop innovative original proposals that support the mission and goals of the COPS Office. In addition, the COPS Office is seeking specific proposals in the following two general categories: Applied Research/Pilot Programs and Evaluations. Descriptions of the specific types of proposals the Office is seeking are provided under each of these general areas. Please note that applicants are eligible to apply for several projects under multiple areas. Applicants are strongly encouraged to submit original and innovative ideas under the Open Topics area.

A. Open Topics (A)

Approximate Funding per Project: $250,000

Applicants are encouraged to present original and innovative proposals under this topic area. Proposals must support

the mission and goals of the COPS Office to advance the community policing efforts of local law enforcement. Applicants may propose such projects as the direct funding of innovative pilot programs (for example community oriented government pilot projects), the development of tools, products or applied research that will facilitate the implementation or advancement of community policing efforts, or providing training and/or technical assistance to local law enforcement concerning issues relevant to community policing topics (for example community policing as it relates to intelligence gathering). Note that if pilot programs are proposed, they must include an evaluation component to ensure that program effectiveness can be determined and replicated by other agencies.

B. Applied Research/Pilot Programs

1. Institutionalizing Problem Analysis (B1)

Approximate Funding: $500,000

Purpose/Goal: Effective problem-solving requires the in-depth analysis of the underlying conditions that give rise to community problems. The COPS Office recognizes the need to increase the capability of law enforcement agencies to engage in such problem analysis activities to develop effective solutions to them. In furtherance of this objective, the COPS Office recently convened a forum of leading experts and practitioners to discuss and clarify the notion of problem analysis. The publication ''Problem Analysis in Policing'' details the primary results of this forum and can be found at *www.cops.usdoj./gov/Default.asp?Open=True&Item=847.*

Applicants should familiarize themselves with this document; as the primary goal of this project is to facilitate the implementation of problem analysis into approximately five law enforcement agencies of varying size.

Objectives/Expectations: The applicant will develop a process to select five law enforcement agencies that have a demonstrated commitment to and understanding of the problemsolving process. A significant portion of the funding requested should be used to provide ''incentive'' monies directly to each of the selected agencies to enhance their problem analysiscapabilities. For example, this enhancement may include funding such items as a portion of the salary of a new problem analyst or funding to perform problem analysis research and hardware/software used for problem analysis. The applicant will be expected to provide technical assistance throughout the course of the project to ensure the greatest possibility of achieving the institutionalization of problem analysis capabilities within the policing agencies. The applicant will also be expected to engage in a detailed process evaluation, including case studies of each of the sites, which will enable other agencies to replicate and learn from these efforts.

Deliverables: The applicant will be expected to deliver a description of site selection criteria, any training curriculum/technical assistance resources developed for the agencies, a final detailed process evaluation, and case studies of each of the five selected sites. The applicant will also be expected to develop a final guide for use by police agencies who are seeking to institutionalize a problem analytic function.

Knowledge/Experience Required: Proposals should provide a definition of problem analysis, differentiating it from crime analysis as it is currently conducted, and discuss the current state of problem analysis in the nation's law enforcement agencies. The applicant should provide a preliminary outline of the process that will be used to select the five agencies and demonstrate their knowledge of law enforcement agencies and past experience working closely with them. The applicant should demonstrate a thorough understanding of community policing and problem-solving processes and the ability to train others in them.

2. Hiring/Recruitment/Retention of Community Police Officers (B2)

Approximate funding: $400,000

Purpose/Goal: Hiring and retaining top quality police officers has long been both a priority and a challenge for police agencies. This has become even more critical in an era of community policing since the events of 9/11. There are many stages and activities associated with recruiting, hiring, and retaining officers with the skills to meet today's challenges. The COPS Office seeks to expand upon the development of hiring, recruitment and retention tools that both reflect community policing principles and respond to the hiring pressures facing law enforcement. The state of knowledge and experience regarding successful and innovative recruitment, hiring and retention practices has grown in recent years, and the purpose of this funding is to continue this advancement.

Objectives/Expectations: Local law enforcement is the front line in the fight against terrorism at home. Yet law enforcement agencies are losing sworn officers at a rapid rate due to retirement, the creation of new federal positions that often provide competitive salary and benefits packages, and military call-ups. These factors, along with the emergence of community policing as the predominant policing paradigm, necessitate the development and testing of innovative practices to recruit and retain quality sworn personnel.

In two Chief Executive Officer Symposia convened by the COPS Office both pre- and post-9/11, police and sheriff executives identified several points of need in the area of police recruitment and hiring. These include a definition of an ideal candidate that incorporates the perspectives of not only those in law enforcement, but also the views of the community. Similarly, a national job description and a validated set of core competencies that more comprehensively reflect community policing and problem solving principles are needed. Another identified priority was research into private sector best practices on recruitment, retention, leadership, and succession planning that could be leveraged in a policing environment. Tools and techniques for confronting institutional biases within these processes are also important to develop. Finally, these leaders also expressed an interest in the development of a national marketing campaign geared towards promoting policing in the 21st Century.

The expectations for grants and cooperative agreements funded under this section are to respond to these recommendations through innovative projects, applied research, and/or the development of practical tools for use by law enforcement.

Deliverables/Outcomes: Projects under this topic area could take several forms, such as the development of pilot programs that are able to be replicated, monograph publications, recruitment tools for use by police departments, innovative testing and interviewing instruments, or the development of effective model print, radio and television employment public service announcements for use by agencies. Applied research projects that examine the effectiveness of recruitment and retention efforts, separately and combined, in attracting and retaining women and minorities may also be funded. For instance, it may be important to evaluate the relative effectiveness of various assessment instruments in predicting future police performance (according to community policing principles)—and as important—who will remain in law enforcement. Issues related to whether

what recruits learn in the academy accurately reflects the work they will do, and whether gaps in training contribute to attrition could also be addressed through funding.

Knowledge/Experience Required: Applicants must demonstrate a strong knowledge of the issues associated with police recruitment, hiring, and retention. Additionally, any non-law enforcement agency applicants must have experience working with law enforcement agencies.

3. Volunteers in Police Service (B3)

Approximate Funding per Project: $50,000

Purpose/Goal: In his 2002 State of the Union Address, President George W. Bush announced the creation of the *USA Freedom Corps,* which is an effort to foster a culture of service, citizenship, and responsibility, building on the generous spirit of the American people. The *Citizen Corps* programs are part of the USA Freedom Corps initiative and share the common goal of helping communities prevent, prepare for, and respond to crime, natural disasters, and other emergencies.

One of the Citizen Corps programs is Volunteers in Police Service (VIPS), administered by the *U.S. Department of Justice.* The goal of VIPS is to enhance the capacity of state and local law enforcement to utilize volunteers. These civilian volunteers provide support for resource-constrained law enforcement agencies by supplementing their community's law enforcement professionals to free officers for frontline duty. Funding will be provided to enhance and institutionalize a volunteer in police service program within local police departments.

Objectives/Expectations: To help expand the VIPS program, the COPS Office is seeking proposals from local law enforcement agencies to establish or enhance their volunteer program and recruitment efforts. Preliminary information from the VIPS program stresses the importance of a volunteer coordinator. An effective volunteer coordinator is often linked to a success of VIPS programs and funds from this grant can (but are not required) be used to help cover costs of this position. Among other items, funding may also be used for such things as advertisements and marketing of volunteer programs (including Web site development), activities associated with neighborhood watch and other resources for volunteer coordination, implementation, and evaluation efforts. Grantees will be required to attend a COPS Office VIPS-related training and should budget travel for 2 individuals to attend this training. Law enforcement agencies receiving funding must register with USA Freedom Corps as an official VIPS site.

Deliverables/Outcomes: The primary outcome will be an operational volunteer in police service program that enhances the ability of the local police department to effectively provide public services. Grantees will provide a final report to the COPS Office documenting how the funding directly enhanced their volunteer program and the overall benefits to the agency, so that these efforts can be promoted and replicated in other law enforcement agencies.

Knowledge/Experience Required: Applicants must be law enforcement agencies. Applicants should familiarize themselves with the Volunteers in Police Service program (*www.policevolunteers.org*) for additional information about programs that could possibly be replicated in their agency using this funding. Grantees must also express a strong commitment to maintain volunteer program efforts after grant expiration.

4. Topic Focused Law Enforcement Technology Guides (B4)

Approximate Funding: $250,000

Purpose/Goal: While the benefits of implementing technology are obvious, the obstacles to getting the most from that technology often are not. In a time when growing responsibilities greatly increase the duties of local law enforcement agencies, a natural response is to turn to technology as a force multiplier. However, there are a limited number of technology resources that are specifically tailored for law enforcement. To meet the need for additional resources, in 2001 the COPS Office funded the development of a Law Enforcement Tech Guide, a comprehensive ''A to Z'' technology planning, acquisition, implementation and integration guide that helps agencies address crime and social disorder issues. This guide can be found on the COPS Office Web site at *www.cops.usdoj.gov/Default.asp?Item=512.*

The guide has been well received by the law enforcement community. However, there are numerous other issues in the area of law enforcement technology that could be addressed by similar guides. Funding will be provided to produce additional law enforcement technology guidebooks.

Objectives/Expectations: To meet these evolving needs, the COPS Office is seeking proposals for the development of multiple technology-specific guidebooks for law enforcement. Topics that may be addressed include, but are not limited to, interoperability, crime mapping, 311, integration, technology training, managing change due to technology implementation, records management systems, and technology for the small/rural agencies.

Deliverables/Outcomes: Applicants will produce guidebooks designed for a law enforcement audience on multiple technology-specific topics.

Knowledge/Experience Required: The applicants should address their knowledge and experience in the area of information systems implementation in law enforcement environments.

Proposals should also demonstrate the applicant's knowledge and experience regarding the specific topics of the guidebooks being proposed and the ability to write for a law enforcement audience.

5. 311 for Homeland Security and Crisis Management (B5)

Approximate Funding per Project: $300,000

Purpose/Goal: Since 9/11 homeland security concerns have prompted the Administration to call on citizens to be vigilant. In addition, recent domestic criminal events, such as the October 2002 sniper attacks in the Washington Metropolitan Area, have further illustrated the need to encourage citizen information sharing for crime prevention and crime solving. The effects of such heightened awareness and calls for citizen participation have resulted, in part, in a 911 system challenged to keep up with calls from concerned citizens, many of whom use 911 as their primary vehicle to initiate contact with the police or other public service agencies.

311 Public Service Model non-emergency call systems can support and be integrated into homeland security and emergency preparedness plans and policies. 311 systems can be especially effective when they allow for coordinated efforts and information sharing between multiple public service agencies (*e.g.,* transportation, health, sanitation, victim services etc.). 311 systems can support emergency management efforts and enhance public service agency response efforts to prepare for emergencies.

Proposals are being sought from law enforcement agencies prepared to establish a Public Service Model 311 non-emergency call system that includes multiple public service agencies such as law enforcement, EMS, transportation, health, sanitation, victim

services etc. for the purposes of improving homeland security and crisis management plans and practice. Funding is available for equipment (hardware and software) necessary to establish a Public service Model 311 non-emergency call system and for an impact evaluation of such a system. Funding is available to law enforcement agencies currently operating within jurisdictions that do not have a 311 system or those interested in expanding a law enforcement only 311 system into one that includes multiple public service agencies.

Objectives/Expectations: This project would require applicants to:

1. Establish a Public Service model 311 system involving multiple public service agencies, designing this non-emergency communication system to fill current gaps in information sharing between public service agencies and enhance the effectiveness of current homeland security and crisis management plans.

2. Develop innovative ideas for improving emergency dispatching, call prioritization, and records management systems.

3. Evaluate the impact of the 311 system on homeland security and crisis management plans and provide results of the evaluation to public safety personnel (including first-responders), other public service agencies, and the community-at-large. The evaluation should clearly demonstrate the utility of 311 in homeland security and crisis management.

Deliverables/Outcomes: Deliverables will include an operational Public Service Model 311 system (that includes multiple public service agencies). An impact evaluation is expected to be completed six months after the system has become operational and should be budgeted for.

Knowledge/Experience Required: Proposals should include the following items:

1. Applicants may apply for funding to either start-up a 311 system that includes multiple public service agencies or to expand current law enforcement only 311 systems. Due to the focus on developing cooperation and accountability between multiple public service agencies, jurisdictions currently operating a multi-agency Public Service Model 311 system are ineligible for funding under this topic.

2. Funding may be contingent on the current technological infrastructure of the applicant agency. Applicants must provide details of current technological infrastructure available to support the project.

3. Applicants must provide a demonstration of need, showing that a Public Service Model 311 non-emergency system will aid in the development of Homeland Security and Crisis Management plans and practice. This demonstration of need should be included as a separate document (no longer than 15 double-spaced typed pages) and will not count towards the proposal page limit.

4. Applicants must demonstrate that they have secured support from the primary stakeholders, including government executives, and at least two non-public safety agency executives. Stakeholders must have determined that a Public Service Model 311 system involving multiple public agencies will benefit the homeland security and crisis management plans and practices of the jurisdiction.

5. Applicants must address the implications of utilizing a 311 system for homeland security and crisis management efforts on current organizational processes, delineating each affected agency. The potential impact of 311 on police non-emergency calls must be described in the proposal.

6. Applicants must demonstrate the availability of in-kind contributions for establishing this system. This information is necessary, as the cost of most 311 systems will most likely exceed the amount of COPS-funding available.

7. Smaller law enforcement agencies are encouraged to partner with one or more neighboring jurisdictions in this effort.

C. Evaluations

1. Evaluation of MORE Grant Effectiveness (C1)

Approximate Funding: $200,000

Purpose/Goal: The COPS MORE (Making Officer Redeployment Effective) program is one of several approaches developed by the COPS Office to increase the deployment of law enforcement officers devoted to community policing. COPS MORE grants have been used to purchase law enforcement technology. One primary requirement of COPS MORE is that the time-savings experienced by officers as a result of the additional technology must result in redeployment into community policing activities. Some examples of the types of time-saving technology purchased through MORE grants include: mobile data terminals, record management systems, computer aided dispatch systems, and automated fingerprint identification systems.

Over the past seven years, the COPS Office has also recognized that technology can result in increased officer effectiveness. This increased effectiveness contributes to the overall COPS aim of reducing crime and social disorder through community policing.

Last year the COPS Office funded 295 agencies under the COPS MORE 2002 program. while MORE grantees were previously required to track and report time-savings and redeployment resulting from their grant, this requirement was removed under MORE 2002. while time-savings and redeployment still occur, the COPS Office is interested in an evaluation that will document or estimate the full-time equivalents (FTE's) redeployed, as well as the impacts of these technologies on department operations, communication, and community policing.

Objectives/Expectations: The COPS Office is seeking proposals that seek to document the efficiencies and effectiveness outcomes created as a result of the technology funded under the COPS MORE 2002 program.

Deliverables/Outcomes: The applicant will be expected to produce documentation that examines the efficiencies created as a result of the MORE 2002 program, and also examine and document any increases in effectiveness resulting from the program. The project deliverable(s) should also inform the profession on these findings in the form of a guidebook that will assist law enforcement agencies in achieving maximum efficiency and effectiveness with these technologies. This guidebook should demonstrate how to realize the desired results; provide instruction on police technologies based on the documented experiences of these grantees; and develop a model for agencies to use to self-evaluate their technology projects.

Knowledge/Experience Required: Applicants should demonstrate their knowledge of the COPS MORE program and of other technology-related outcomes beyond time-savings. Proposals should also provide a summary of the evaluation design and methods that would be used to measure effectiveness and efficiencies generated as a result of COPS MORE grants.

2. Analysis of COPS Start-Up Agencies (C2)

Approximate Funding: $150,000

Purpose/Goal: The COPS Office has provided funding to approximately 300 jurisdictions to initiate the development of police departments. These ''start-up'' agencies provide an opportunity to learn more about the factors associated with the implementation and initiation of

police departments and community policing activities in smaller settings.

Objectives/Expectations: The COPS Office is seeking proposals that examine the nature of these COPS funded start-up law enforcement agencies, trace their history, and document impediments and facilitators to the institutionalization of community oriented police services in smaller settings.

Deliverables/Outcomes: Applicants will be expected to produce a final report documenting the nature of COPS funded start-up law enforcement agencies and a guidebook aimed at assisting the development of police agencies in smaller settings. This guidebook should highlight important factors that should be taken into consideration when ''starting-up'' a police department and provide guidance on how to best effectively accomplish this task.

Knowledge/Experience Required: The applicant should have working knowledge of policing in smaller settings and the processes and procedures involved in initiating the development of an effective police department.

3. Managing Local Evaluations: A Guide for Law Enforcement (C3)

Approximate Funding: $100,000

Purpose/Goal of Proposed Project: Law enforcement is frequently called upon to provide evaluation information regarding local public safety efforts. Some agencies employ in-house evaluators, but many must seek external assistance from local universities or with private consultants. In some cases, evaluations that are conducted may not adequately meet the needs of the law enforcement agency.

This project will assist law enforcement agencies in providing funding for and in conducting and utilizing program evaluations.

Objectives/Expectations of Proposed Project: Proposals are being sought to develop a Law Enforcement Practitioner Guide to Managing Local Evaluations. This guide should assist law enforcement agencies through the evaluation process from start to finish-from how to select an evaluator, the managing on-going evaluations, to evaluating the final deliverable. Possible issues to be addressed include how to best communicate needs to potential evaluators, the types of documents that should be obtained and reviewed prior to selecting an evaluator, and how to best formulate a contract with an evaluator. The benefits of securing and speaking with references, the need for a detailed research plan, the importance of selecting the right agency official to work with the evaluator, and how to address whether an evaluator will meet their needs should also be discussed. The guide may also help the law enforcement practitioner understand the true costs of evaluations, predict potential budget pitfalls, and discuss how to spot trouble early-on and what to do in situations of non-compliance. Finally, the guide should help law enforcement practitioners generally understand how to apply the findings of an effective evaluation.

Deliverables/Outcomes: The primary deliverable is a publishable copy of a Law Enforcement Practitioner Guide to Managing Local Evaluations.

Specific Knowledge/Experience Required: Applicants must demonstrate a through understanding of the evaluation process and ability to write content for a law enforcement auidence. They must have documented program evaluation experience. A sample of an original published or unpublished program evaluation should be included with the application. This writing sample will not count towards the proposal page limit.

4. Analysis of COPS Police Integrity Initiative (C4)

Approximately Funding: $500,000

Purpose/Goal: This request is presented in two parts. Proposals should address both parts.

Part I:

The COPS Office is seeking the development of a comprehensive product that will summarize and highlight current work being done by COPS grantees to prevent racial profiling and to increase trust between police and citizens. In Fiscal Year 2001, the COPS Office funded (21) police departments under the Promoting Cooperative Strategies to Reduce Racial Profiling initiative to develop strategies that would address racial profiling. These strategies include:

- Collecting and analyzing traffic-stop data;
- Accountability and supervision;
- Recruitment and selection;
- Training and education of police and citizens;
- Using technology to prevent racial profiling; and
- Minority community engagement initiatives.

At the conclusion of these projects, each of the 21 police departments will produce a technical assistance guide that will document lessons learned and model practices that can be replicated by other law enforcement agencies. The technical assistance guides will be developed so that other police-community partnerships can benefit from the lessons learned when addressing police integrity issues. In that regard, these technical assistance guides are intended to include what worked, what did not work, the barriers to project implementation, solutions to obstacles in solving problems, and a discussion on how the project strengthened police integity, police-community relationships, and the related impact on racial profiling prevention.

Part II:

The COPS Office is also seeking a preliminary assessment of current work being done by COPS grantees to create cultures of integrity. In Fiscal Year 2002, the COPS Office funded 60 law enforcement agencies to develop a strategy that would support a culture of integrity, and 41 state chiefs' and sheriffs' associations to host police integrity training workshops at their annual meetings. The law enforcement strategy areas include:

- Use of force policy and training;
- Development of early intervention systems;
- Mapping integrity violations and related interventions;
- Self assessment techniques for internal monitoring;
- Strengthening internal affairs division operations;
- Improving citizen complaint processes;
- Utilizing a civilian review board;
- Command staff integrity training;
- Ensuring accountability to the community;
- Outreach to minority youth;
- Traffic stop data collection; and
- Recruiting quality recruits from local communities.

The association strategy areas include:

- Integrity training to support community policing;
- Homeland security and police integrity;
- Building public trust and confidence;
- Integrity challenges to police leadership; and
- Developing policy that strengthens integrity.

For more information on the COPS Police Integrity Initiatives, please visit the COPS Web site at: *http://www.cops.usdoj.gov/Deault.asp?Open=True&Item=393*

Objectives/Expectations:

Part I:

In order to maximize the work being done in the field through this important initiatives, the COPS Office is seeking

the development of a comprehensive product that will summarize and highlight varied approaches across the six strategy areas under the Promoting Cooperative Strategies to Reduce Racial Profiling initiative. This project will require the applicant to:

• Provide on-site and/or telephone technical assistance to the agencies, if necessary, to assist in the completion of the final technical assistance guides;

• Review the 21 technical assistance guides for the purpose of compiling successes, model practices and lessons learned during strategy development/enhancement and implementation;

• Incorporate the following information/discussion into the final product:

(1) The impact of the strategies on the reduction and/or prevention of racial profiling and the perceptions of its practice;

(2) How strategy development and implementation contributed to building trust between police and citizens and to advancing community policing;

(3) Recommendations and considerations for other agencies that are interested in replicating these strategies.

Part II:

This project will require the applicant to:

• Work with the COPS Office to develop a preliminary assessment plan for documenting the progress of 101 grantees funded under the Creating a Culture of Integrity initiative;

• Submit a final report that discusses the following information:

(1) How COPS funding was used to meet project goals and objectives;

(2) Successes and challenges in developing and implementing the projects;

(3) The impact of the funding on advancing police integrity and creating cultures of integrity.

Deliverable/Outcomes:

Part I:

The applicant will be expected to produce a comprehensive final product that will summarize the experiences of the 21 police departments in developing their strategy under the Promoting Cooperative Strategies to Reduce Racial Profiling initiative, and the related impact on advancing community policing and racial profiling prevention. This product will provide an overview of varied approaches to addressing this significant issue for other law enforcement agencies that are interested in replicating these strategies.

Part II:

The applicant will be expected to conduct a preliminary assessment of 101 law enforcement agencies and police chiefs' and sheriffs' associations funded under the Creating a Culture of Integrity initiative. The purpose of this assessment will be to assist the COPS Office in documenting the progress of these pilot projects. The COPS office will expect a final report that discusses the outcomes of the preliminary assessment.

Knowledge/Experience Required: In addition to the general criteria listed in the solicitation, the applicant should address knowledge and experience in the areas of police integrity and racial profiling. In addition, the applicant should address knowledge and experience in each of the six strategy topic areas under the Promoting Cooperative Strategies to Reduce Racial Profiling initiative. The applicant should demonstrate a thorough understanding of community policing, and the importance of mutual trust and respect between police and citizens in order to strengthen police integrity and to advance the principles of community policing. Applicants should also have a demonstrated awareness of the COPS Police Integrity Initiatives.

How To Apply. Those interested in submitting an application in response to this solicitation must complete a Community Policing Development Application Packet. A detailed project description that is responsive to the criteria presented above must be included under section I of the packet. In this project description also discuss your management plan for implementing this project with respect to internal and external management of personnel and resources and your experience with managing grants and cooperative agreements. Resumes of key project staff/named consultants (relevant experience for the proposed project should be highlighted) should also be included and does not count towards the page limit.

Applicants may submit distinct multiple applications for different topic areas or propose projects that effectively combine topic areas. However, each distinct project must be described in detail in a separate Community Policing Development Application Packet with original signatures.

Notice of Intent To Apply: Please fax the accompanying notice of intent to reply form to the COPS Office, indicating the topic area(s) you are planning to apply under. The letter should be faxed to the attention of Angel Winters at 202–616–8658 no later than June 2, 2003.

ADDRESSES: Applications for this solicitation are due to the COPS Office by June 30, 2003 by 6 p.m. Please submit an original application package (with original signatures) and four copies to: U.S. Department of Justice, Office of Community Oriented Policing Services, 1100 Vermont Ave., NW., Washington, DC 20530, *Attn:* Angel Winters, PPSE.

FOR FURTHER INFORMATION CONTACT: Please contact Angel Winters at (202) 514–9199 to obtain additional information about the solicitation. Application forms and information regarding the COPS Office are also available by calling the U.S. Department of Justice Response Center at 1–800–421–6770 or by visiting the COPS Office Internet Web site at *www.cops.usdoj.gov.*

(The Catalog of Federal Domestic Assistance (CFDA) reference for this program is 16.710.)

Dated: May 5, 2003.

Carl R. Peed,

Director, Office of Community Oriented Policing Services.

[FR Doc. 03–12692 Filed 5–20–03; 8:45 am]

BILLING CODE 4140–AT–M

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil Action No. 1: 03CV 000758]

United States v. Univision Communications Inc. & Hispanic Broadcasting Corp.

Proposed Final Judgment and Competitive Impact Statement. Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *Univision Communications Inc.,* Civil Action No. 03CV000758. On March 26, 2003, the United States filed a Complaint alleging that Univision Communications Inc. (''Univision'') and Hispanic Broadcasting Corp. (''HBC'') violated Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that, due to Univision's partial ownership of Entravision Communications Corp. (''Entravision''), a principal competitor of HBC, the proposed acquisition, if consummated, will substantially lessen competition in the sale of advertising time on Spanish-language radio stations in many geographic markets. The proposed Final Judgment requires Univision to exchange its Entravision shares for a nonvoting equity interest, divest a substantial portion of its

ownership in Entravision, give up its seats on Entravision's Board of Directors, eliminate certain rights Univision has to veto important Entravision actions, and restrain certain conduct that would interfere with the governance of Entravision's radio business. The proposed Final Judgment specifically requires Univision, presently owning approximately thirty percent of Entravision, to divest down to fifteen-percent owership within three years, and ten-percent ownership within six years. Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the Department of Justice in Washington, DC., Room 200, 325 Seventh Street, NW., on the Internet at *http://www.usdoj.gov/atr*, and at the Office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, NW., Washington, DC 20001.

Public comment is invited within sixty days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to James R. Wade, Chief, Litigation III Section, Anitrust Division, Department of Justice, 325 Seventh Street, NW., Suite 300, Washington, D.C. 20530 (telephone: (202) 616–5935).

Constance K. Robinson,
Director of Operations.

Competitive Impact Statement

Plaintiff, the United States of America, by and through the Antitrust Division of the Department of Justice (''Department''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

The Department filed a civil antitrust complaint on March 26, 2003, alleging that the proposed acquisition of Hispanic Broadcasting Corporation (''HBC'') by Univision Communications Inc. (''Univision'') would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18. HBC is the nation's largest Spanish-language radio broadcaster. Univision, the largest Spanish-language media company in the United States, owns a significant equity interest, and possesses governance rights, in Entravision Communications Corporation (''Entravision''), another Spanish-language media company and HBC's principal competitor in Spanish-language radio in many markets. The Complaint alleges that, due to Univision's substantial partial ownership and governance rights in Entravision, the proposed acquisition of HBC would lessen competition substantially in the provision of Spanish-language radio advertising time to a significant number of advertisers in several geographic areas of the United States. The request for relief seeks: (a) A judgment that Univision's proposed acquisition would violate Section 7 of the Clayton Act; (b) preliminary and permanent injunctive relief preventing the consummation of the proposed merger; (c) an award to the United States of the costs of this action; and (d) such other relief as is just and proper.

Before this suit was filed, the Department reached an agreement with Univision and HBC on the terms of a proposed consent decree, which, if entered, would require Univision to reduce its equity interest in Entravision to 15 percent of outstanding shares within three years from the filing of the proposed decree and to 10 percent within six years. The decree would also require Univision to relinquish its rights to place directors on Entravision's Board, eliminate certain rights Univision has to veto important Entravision actions, and restrain certain conduct that would interfere with the governance of Entravision's radio business.

A Stipulation and proposed Final Judgment embodying the settlement were filed simultaneously with the Complaint on March 26, 2003. The Department and the defendants have stipulated that they will be bound by the proposed Final judgment upon its filing. The proposed Final Judgment may be entered after compliance with the APPA unless rejected by the Court. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Univision, a Delaware corporation with its principal place of business in Los Angeles, California, is the largest broadcaster of Spanish-language television programming in the United States with two broadcast networks, Univision and Telefutura, and one cable channel, Galavision. It also has several other Spanish-language media operations, including Internet sites and services, music recording, distribution, and publishing.

Univision has a significant and long-standing relationship with Entravision, a Spanish-language media company with television, radio, outdoor advertising, and publishing businesses. Entravision, which is not a party to this action, currently owns or operates approximately 55 radio stations throughout the United States, most of which broadcast Spanish-language programming. Entravision also owns or operates 49 television stations that broadcast Univision programming pursuant to an affiliation agreement that does not expire until December 31, 2021. As part of this affiliation agreement, Univision serves as Entravision's sole representative for the sale of television advertisements sold on a national basis.

At the time the proposed acquisition was announced, Univision owned an approximate 30-percent equity and seven-percent voting interest in Entravision. In addition, Univision, as the sole holder of Entravision's Class C common stock, has significant governance rights with respect to Entravision. Although Univision's representatives resigned after the proposed acquisition was announced, Univision has the right to place two representatives on Entravision's Board of Directors. Univision also has the right to veto important Entravision business decisions. Entravision's Bylaws provide Univision the right to veto Entravision's (a) Issuance of equity, (b) incurrence of debt at certain levels, and (c) acquisitions or dispositions of assets valued at greater than $25 million. Entravision's Certificate of Incorporation provides Univision the right to approve any Entravision (a) Merger, consolidation, business combination or reorganization, (b) dissolution, liquidation, or termination, and (c) transfer of any FCC license with respect to a television station that is an affiliate of Univision.

HBC, a Delaware corporation with its principal place of business in Dallas, Texas, is a media company that owns or operates more than 60 radio stations in 18 geographic regions in the United States. Nearly all of the HBC's stations broadcast in Spanish. HBC's other businesses include a marketing group and interactive online services.

On June 11, 2002, Univision agreed to acquire all of the voting securities of HBC. This transaction, if consummated, would result in a reduction in competition between HBC and Entravision in the provision of Spanish-

language radio advertising in certain markets where the firms compete.

B. Markets

The Complaint alleges that the provision of advertising time on Spanish-language radio stations to advertisers that consider Spanish-language radio to be a particularly effective medium is a relevant product market, and that the Dallas, Texas; El Paso, Texas; Las Vegas, Nevada; McAllen-Brownsville-Harlingen, Texas; Phoenix, Arizona; and San Jose, California metro areas (''Overlap Markets'') are each a relevant geographic market.

1. Relevant Product Market

Radio broadcasters, like HBC and Entravision, sell advertising time to local and national advertisers in areas where their stations are located. HBC and Entravision each negotiate these transactions individually with each local and national advertiser, and the resulting price for advertising time reflects the circumstances of these individual negotiations and the preferences of each advertiser.

There are a significant number of local and national advertisers in the geographic markets identified below that consider Spanish-language radio to be particularly effective in reaching desired customers who speak Spanish and who listen predominately or exclusively to Spanish-language radio. Such advertisers view Spanish-language radio, either alone or in conjunction with other media, to be the most effective way to reach their target audience and do not consider other media, including non-Spanish-language radio, to be a reasonable substitute. These advertisers would not turn to other media, including radio that is not broadcast in Spanish, if faced with a small but significant increase in the price of advertising time on Spanish-language radio or a reduction in the value of the services provided.

Given the nature of individualized negotiations between radio stations and advertisers discussed above, Spanish-language radio stations are likely able to identify advertisers that place a high value on utilizing Spanish-language radio to reach their targeted audience. Such advertisers would not find it economical to switch, or credibly threaten to switch, to other media to avoid a post-merger price increase. In the geographic markets identified below, there are a significant number of advertisers that consider Spanish-language radio advertising to be a particularly effective medium, and the provision of advertising time on Spanish-language radio stations to these advertisers is a relevant product market within the meaning of Section 7 of the Clayton Act.

2. Relevant Geographic Markets

Advertising placed by local and national advertisers on radio stations in the Overlap Markets is aimed at reaching listening audiences within each of those Overlap Markets, and radio stations outside an Overlap Market do not provide effective access to that audience. If there were a small but significant increase in the price of advertising time on Spanish-language radio stations within an Overlap Market, advertisers would not switch enough purchases of advertising time to stations outside the Overlap Market and/or otherwise reduce their purchases to defeat the price increase. Thus, the Overlap Markets of Dallas, El Paso, Las Vegas, McAllen-Brownsville-Harlengen, Phoenix, and San Jose are each relevant geographic markets for the purpose of Section 7 of the Clayton Act.

C. Harm to Competition in Radio Advertising Markets

1. Current Competition Between HBC and Entravision

The Compliant alleges that Entravision and HBC are vigorous competitors in the provision of Spanish-language radio. They heavily promote their stations against each other in order to gain ratings; they program and format their stations with an eye toward attracting listeners from each other; they aggressively seek to acquire stations; and they closely monitor each other's competitive positions in the Overlap Markets. Most importantly, the Compliant alleges that HBC and Entravision compete aggressively to sell advertising time to advertisers that seek to reach Spanish-language audiences. During individualized rate negotiations, advertisers targeting Spanish-language listeners benefit from its competition, including the ability to play off HBC stations against Entravision stations to reach better terms.

2. Reduction in Competition From the Acquisition

The Complaint alleges that, given Univision's significant ownership stake and governance rights in HBC's principal competitor, Entravision, the acquisition of HBC by Univision will lessen competition substantially in the sale of advertising time on Spanish-language radio in the Overlap Markets. The market for the provision of Spanish-language radio in the Overlap Markets is highly concentrated, with HBC and Entravision's combined share of advertising revenue ranging from 70 to 95 percent. HBC and Entravision face few other significant competitors and, for many local and national advertisers buying advertising time on Spanish-language radio, they are the next best substitutes for each other.

The Complaint alleges that Univision's ownership of a substantial equity stake in Entravision, and its ability to influence or control competitively significant Entravision decisions, will lessen the incentives of both companies to compete aggressively against each other and will result in higher prices and lower service quality in the sale of Spanish-language radio advertising time. Univision's right to place directors on Entravision's board and right to veto certain strategic business decisions (namely any Entravision issuance of equity or debt, or acquisitions over $25 million) give it a significant degree of control or influence over Entravision and will likely impair Entravision's ability and incentive to compete with Univision/HBC. For example, Univision's right to veto any Entravision acquisition of assets over $25 million would allow Univision/HBC to prevent Entravision from purchasing any significant radio station assets in a market where HBC competes. A Univision veto on the issuance of new stock or debt could leave Entravision without access to capital it may need to make acquisition or otherwise compete effectively with HBC. Entravision has frequently taken actions in the past that have been subject to these Univision veto rights and, because its plans call for more growth through acquisition, Entravision is likely to need Univision's approval on many occasions in the future. Indeed, the existence of these veto rights lessons competitions even if they are not exercised because Entravision will have the incentive to constrain its normal competitive behavior against Univision/HBC to ensure that Univision/HBC provides the necessary approval.

Univision's approximately 30-percent equity interest in Entravision also will substantially reduce competition between Univision/HBC and Entravision. Univision/HBC will have reduced incentives to compete against Entravision for advertisers seeking a Spanish-language radio audience because Univision/HBC, as a substantial owner of Entravision stock, will benefit even if a customer chooses Entravision rather than HBC. Consequently, HBC will compete less aggressively to gain customers at the expense of Entravision, resulting in an increase in prices for a significant number of advertisers in the

Overlap Markets. Advertisers that consider Spanish-language radio to be a particularly effective medium will find it difficult or impossible to ''buy around'' Univision/HBC and Entravision, *i.e.,* to effectively reach their targeted audience without using Univision/HBC and Entravision radio stations.

Entry of new Spanish-language radio stations into the relevant geographic markets would not be timely, likely, or sufficient to mitigate the competitive harm likely to result from this acquisition. In theory, entry could occur by obtaining a license for new radio spectrum or by reformatting an existing station. New radio spectrum acquisition is highly unlikely, however, because spectrum is a scarce and expensive commodity and reformatting by existing stations is unlikely to defeat a price increase by Univision/HBC or Entravision. Radio stations are unlikely to undertake a format change solely in response to small but significant increases in price being charged to advertisers by a firm such as Univision/HBC, and even given such a format change, radio stations that did change formats would be unlikely to attract enough listeners to provide sufficient alternatives to the merged entity. Reformatting is an expensive endeavor that involves the loss of the station's existing audience, a significant expense to attract new listeners, and no assurance of attracting a significant listening base to justify the costs involved. It generally occurs when a station believes that a particular format is not being sufficiently served or when a station finds an niche between existing formats. An increase in the price of advertising rates charged by existing stations serving a specific format does not in itself provide assurance that a newly formatted station would attract a sufficient audience base, particularly if there are strong incumbents already in that format.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment is designed to preserve competition in the sale of advertising time on Spanish-language radio stations in the Overlap Markets by restricting Univision's ability to control or influence Entravision's radio business and by significantly reducing Univision's equity stake in Entravision. The proposed Final Judgment has three principal provisions: (1) Exchange of Univision's Entravision stock for a nonvoting equity interest with limited shareholder rights; (2) divestitures of a substantial portion of the defendants' equity stake in Entravision; and (3) restrictions on the defendant's ability to interfere with the governance of Entravision's radio business. The proposed Final Judgment also has several sections designed to ensure its effectiveness and adequate compliance. Each of these sections is discussed below.

A. Exchange of Shares for Nonviting Equity

Section IV of the proposed Final Judgment requires Univision to exchange all of its Entravision Class A and Class C common stock for a nonvoting equity interest with limited rights and to certify that the voting and director rights that Univision has held in connection with its Entravision stock has been eliminated. The limited rights to be associated with the new class of stock to be issued to defendants are set forth in a Certificate of Designations, Preferences and Rights of Series U Preferred Stock, which is attached to the proposed Final Judgment. The exchange of stock must occur prior to the closing of the Univision/HBC merger.

These provisions will significantly curtail Univision's ability to influence or control Entravision's business conduct. As part of the acquisition of a new class of stock, Univision will relinquish certain rights it previously had in connection with Entravision governance. First, Univision will relinquish all shareholder voting rights so that it will not be able to vote on any corporate matters. Second, Univision will relinquish its two seats on Entravision's Board of Directors so that it will no longer have access to confidential Entravision information or the ability to vote on matters before the Board. Third, Univision will relinquish certain ''veto'' rights over important Entravision decisions, namely Univision's rights under the Entravision Bylaws to veto Entravision's issuance of equity, incurrence of debt at certain levels, and acquisitions or dispositions of assets valued at greater than $25 million. Retention of these rights would have allowed Univision to affect Entravision's strategic decision-making by preventing, or threatening to prevent, Entravision from making acquisitions or raising capital. Moreover, the continued existence of these veto rights would lessen competition even if they were not exercised because Entravision would have the incentive to constrain its normal competitive behavior against Univision/HBC to ensure that Univision/HBC would grant necessary approvals for future transactions subject to the veto rights.

The proposed Final Judgment does not require elimination of all shareholder rights that Univision currently possesses. As set forth in the Certificate of Designations, Univision will retain the modified right to veto any decision by Entravision to merge, consolidate, or otherwise reorganize Entravision with or into one or more entities that results in a transfer of all or substantially all of the assets of Entravision or a transfer of a majority of the voting power of Entravision.[1] Univision also retains the right to veto any Entravision dissolution, liquidation, or termination. Finally, Univision will also have the right to veto any disposition of any interest in any FCC license with respect to television stations that are affiliates of Univision. The proposed Final Judgment makes clear that these rights may be terminated if Entravision and the defendants choose not to do so. See Section VILC. Defendants, however, are restrained from seeking to expand or modify these limited rights in any manner.

B. Divestiture of Defendants' Entravision Holdings

Section V of the proposed Final Judgment requires Univision to reduce its equity stake in Entravision so that it owns no more than 15 percent of all outstanding Entravision stock by March 26, 2006, and no more than 10 percent by March 26, 2009. The divestitures of this stock may be made by any combination of open-market sale, public offering, private sale, or repurchase by Entravision. The stock may not be sold by private sale or placement to any Spanish-language radio broadcaster other than Entravision unless the Department agrees to such a transaction in writing.

As explained above, if Univision/HBC owned a substantial, partial-ownership interest in Entravision, Univision/HBC would have an incentive to compete less aggressively. This is because Univision/HBC would receive some significant benefit even on sales it loses to Entravision. Reducing Univision/HBC's stake in Entravision to a much lower

[1] Section D(i) of the Certificate provides that without Univision's approval, Entravision will not ''merge, consolidate or enter into a business combination, or otherwise reorganize this Corporation with or into one or more entities (other than a merger of a wholly-owned subsidiary of this Corporation into another wholly-owned subsidiary of this Corporation).'' This approval right is identical to one that Univision possessed previously. Section VI.C of the proposed Final Judgment, however, limits Univision's rights in that it provides that Univision may not exercise its rights under D(i) unless the transaction at issue ''results in a transfer of all or substantially all of the assets of Entravision or a transfer of a majority of the voting power of Entravision.''

percentage reduces substantially the likelihood that Univision/HBC's competitive incentives will be affected by its partial ownership of Entravision, thus preserving Univision/HBC's incentive to compete with Entravision.

The terms of the proposed Final Judgment reflect a balancing of the potential harm to competition that might arise from a divestiture that proceeds either too slowly or too rapidly. In merger cases in which the Department seeks a divestiture of assets as a remedy, the Department requires completion of the divestiture within the shortest time period reasonable under the circumstances. In this case, the time periods for divestiture of stock are appropriate, however, because of concerns that a more rapid divestiture might harm competition by adversely affecting Entravision's ability to raise capital to fund expansion of its radio business.

C. Restrictions on Defendants Ability to Participate in the Governance of Entravision

Section VI of the proposed Final Judgment restrains defendants from directly or indirectly: (1) Suggesting or nominating any candidate for election to Entravision's board or serving as an officer, director, manager, or employee of Entravision; (2) accessing any nonpublic information relating to the governance of Entravision; (3) voting or permitting to be voted any shares of Entravision stock that defendants own; (4) using or attempting to use any ownership interest in Entravision to exert any influence over Entravision in the conduct of Entravision's radio business; (5) using or attempting to use any rights or duties under the television affiliation agreement or relationship to influence Entravision in the conduct of Entravision's radio business; and (6) communicating to or receiving from Entravision any nonpublic information relating to Entravision's radio business.

Collectively, these provisions are intended to prevent defendants from participating in Entravision's governance or in the conduct of Entravision's radio business, notwithstanding the defendants' remaining equity interest in Entravision and the television affiliation relationship. While recognizing that Univision and Entravision have a mutual interest in matters affecting their television affiliation relationship, these provisions seek to ensure the competitive independence of the two companies in matters involving the radio business.

D. Permitted Conduct

Section VII of the proposed Final Judgment identifies certain conduct that is permitted. Individual managers, agents, and employees of the defendants are allowed to hold, acquire, or sell Entravision stock solely for personal investment. Officers and directors also may hold or sell Entravision stock but may not acquire any additional Entravision stock. Any Entravision stock held by these individuals is not subject to the stock-exchange or divestiture requirements of Sections IV and V of the proposed Final Judgment.

Section VII also provides that Univision may acquire a majority of Entravision's voting securities so long as the transaction is subject to the reporting and waiting requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a, provided, however, that Univision cannot acquire or retain any interest in Entravision's radio assets in any of the Overlap Markets as part of such a transaction without the approval of the Department, in its sole discretion. This provision makes clear that the proposed Final Judgment does not prohibit a transaction in which Univision would acquire a majority stake in Entravision so long as the Department is afforded the ability to review the transaction pursuant to the established Hart-Scott-Rodino framework. The Department, of course, would review any such transaction to determine whether it was likely to lessen competition in any relevant market. Because the Department has determined that a combination of Univision and Entravision would lessen competition in the sale of advertising on Spanish-language radio in the Overlap Markets, a transaction in which Univision acquired Entravision may not include any Entravision radio assets from the markets that are the subject of the Complaint unless the Department gives its approval.

E. Compliance, Inspection, and Other Provisions Designed To Ensure Effectiveness of the Proposed Final Judgment

Section VIII of the proposed Final Judgment provides for appointment of a trustee should defendants not comply with the terms of the proposed Final Judgment that require stock divestitures within the established time periods. The trustee would have the power to accomplish the divestitures. Section IX requires the defendants to distribute the proposed Final Judgment to certain officers, directors, and appropriate employees, and obtain statements from these individuals that they understand their obligations under the Final Judgment. The terms of this provision are designed to ensure that those individuals responsible for complying with the Final Judgment are aware of its existence and understand its requirements. Section IX also requires annual reports and certifications during the life of the decree. Section X provides a means for the Department to obtain information from the defendants to determine or secure compliance with the proposed Final Judgment. Under Section XI, the Court would retain jurisdiction over this matter to modify or terminate any of its provisions, to enforce compliance, and to punish any violations of its provisions. Section XII provides that the proposed Final Judgment will expire 10 years after it is entered by the Court. Section XIII states that the entry of the proposed Final Judgment is in the public interest.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The Department and the defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the Department has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the Department written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The Department will evaluate and respond to the comments. All comments will be given due

consideration by the Department, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the Department will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: James R. Wade, Chief, Litigation III Section, Antitrust Division, United States Department of Justice, 325 7th Street, NW., Suite 300, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and that the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The Department considered, as an alternative to the proposed Final Judgment, a full trial on the merits of its Complaint for Injunctive Relief against Univision and HBC as well as a proposal by the defendants that they would, in lieu of divestitures, place their Entravision stock in a long-term trust. The Department is satisfied, however, that the divestiture of a substantial portion of equity interest in Entravision by Univision, the surrender of several key control rights, and the other relief contained in the proposed Final Judgment will preserve competition in the sale of radio advertising time on Spanish-language stations serving the Overlap Markets. Thus, the proposed Final Judgment would achieve substantially all the relief the Department would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the Court may consider:

> (1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects to alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;
>
> (2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e). As the United States Court of Appeals for the D.C. Circuit held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 56 F.3d 1448, 1461–62 (D.C. Cir. 1995).

In conducting this inquiry, ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney).[2] Rather,

> [a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. May 17, 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United State* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see* also Microsoft, 56 F.3d at 1460–62. Precedent requires that

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''within the reaches of the public interest.'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[3]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest' '' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *Gillette,* 406 F. Supp. at 716), aff'd sub nom. *Maryland* v. *United States,* 460 U.S. 1001 (1983); see also *United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459. Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States might have but did not pursue. *Id.* at 1459–60.

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the

[2] *See also United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (recognizing it was not the court's duty to settle; rather, the court must only answer ''whether the settlement achieved [was] within the reaches of the public interest''). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. No. 93–1463, 93rd Cong., 2d Sess. 8–9 (1974), *reprinted in* 1974 U.S.C.C.A.N. 6535, 6538.

[3] Cf. BNS, 858 F.2d at 463 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); Gillette, 406 F. Supp. at 716 (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See* generally Microsoft, 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

Department in formulating the proposed Final Judgment.

Dated this 7th day of May 2003.

Respectfully submitted,

/s/ lllllllllllllllllll

William H. Stallings,

Litigation III Section, Antitrust Division, United States Department of Justice, 325 7th Street, NW., Suite 300, Washington, DC 20530.

Certificate of Service

The undersigned certifies that a copy of the foregoing Competitive Impact Statement was served on the following counsel, by electronic mail in PDF format and by hand delivery, this 7th day of May, 2003:

John M. Taladay,

Howrey, Simon, Arnold & White L.L.P., 1299 Pennsylvania Avenue, NW., Washington, DC 20004–2402.

Neil W. Imus,

Vinson & Elkins L.L.P., The Willard Office Building, 1455 Pennsylvania Avenue, NW., Washington, DC 20004–1008.

/s/ lllllllllllllllllll

William H. Stallings,

Stipulation and Order

It is hereby stipulated by and between the undersigned parties, through their respective counsel as follows:

1. The Court has jurisdiction over the subject matter of plaintiff's Complaint alleging defendants Univision Communications Inc. (''Univision'') and Hispanic Broadcasting Corporation (''HBC'') violated Section 7 of the Clayton Act (15 U.S.C. 18), and the parties do not object either to the Court's exercise of personal jurisdiction over them in this case, or to the propriety of venue of this action in the United States District Court for the District of Columbia. The defendants authorize John M. Taladay, Esq. of Howrey, Simon, Arnold & White L.L.P. to accept service of all process in this matter on their behalf.

2. The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedure and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

3. Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though they were in full force and effect as an order of the Court.

4. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

5. In the event that (1) plaintiff withdraws its consent, as provided in paragraph two above, (2) defendants provide notice to plaintiff and the Court that the Agreement and Plan of Reorganization dated June 11, 2002 has been terminated or that the Merger of Univision and HBC (as defined in the Agreement and Plan of Reorganization) has been abandoned; or (3) that the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

6. Defendants represent that the required actions set forth in Sections IV, V, and VI of the proposed Final Judgment can and will be implemented and followed and that the defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the provisions contained therein.

Respectfully submitted,

For Plaintiff United States of America:

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William H. Stallings,

U.S. Department of Justice, Antitrust Division, Litigation III Section, 325 7th Street, NW., Suite 300, Washington, D.C. 20530, Tel: (202) 514–9323, Fax: (202) 307–9952.

Dated: March 26, 2003.

For Defendant Univision Communications Inc.:

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John M. Taladay

Howrey, Simon, Arnold & White, L.L.P. 1299 Pennsylvania Avenue, NW., Washington, D.C. 20004–2402, Tel: (202) 383–6564, Fax: (202) 383–6610.

For Defendant Hispanic Broadcasting Corporation:

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Neil W. Imus,

Vinson & Elkins L.L.P. The Willard Office Building, 1455 Pennsylvania Avenue, NW., Washington, D.C. 20004–1008, Tel: (202) 639–6675, Fax: (202) 879–8875 D.C. Bar 394544.

Order

It is *so ordered,* this lday of March, 2003.

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United States District Court Judge

Final Judgment

Whereas, plaintiff, United States of America, filed its Complaint on March 26, 2003, alleging that defendants, Univision Communications Inc. (''Univision'') and Hispanic Broadcasting Corporation (''HBC''), violated Section 7 of the Clayton Act, 15 U.S.C. 18, and plaintiff and defendants, by their attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against, or an admission by, any party with respect to any issue of fact or law;

And Whereas, defendant have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court:

And Whereas, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by and the imposition of related injunctive relief against the defendants to ensure that competition is not substantially lessened:

And Whereas, defendants have represented to plaintiff that the divestitures required below can and will be made and that defendants will later raise no claim of hardship of difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below:

Now Therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law, and upon the consent of the parties, *it is Ordered, adjudged and decreed* as follows:

I. Jurisdiction

This Court has jurisdiction over the subject matter of, and each of the parties to, this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended 15 U.S.C. 18.

II. Definitions

As used in this Final Judgment:

A. ''*Univision*'' means defendant Univision Communications Inc., a Delaware corporation with its principal place of business in Los Angeles, California, its successors and assigns,

and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

B. ''*HBC*'' means defendant Hispanic Broadcasting Corporation, a Delaware corporation with its principal place of business in Dallas, Texas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. *Entravision* means Entravision Communications Corporation, a Delaware corporation with its principal place of business in Santa Monica, California, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. *Divestiture Assets* means that portion of the Entravision Holdings required to be divested under this Final Judgment.

E. *Entravision Holdings* means any equity interest, whether voting or nonvoting, of Entravision that defendants own or control, directly or indirectly, including, but not limited to, the 21,983,392 shares of Entravision's Class C common shares and the 14,943,231 shares of Entravision's Class A common shares owned by Univision as of the date of the filing this Final Judgment.

F. *The Univision/HBC Merger* means the Agreement and Plan of Reorganization dated June 11, 2002, by and among Univision and HBC under which Univision will acquire 100 percent of the voting securities of HBC.

G. *Own* means to have or retain any right, title, or interest in any asset, including any ability to control or direct actions with respect to such asset, either directly or indirectly, individually or through any other party.

H. *Overlap Markets* are the following Metro Survey Areas: Dallas, Texas; El Paso, Texas; Las Vegas, Nevada; McAllen-Brownsville-Harlingen, Texas: Phoenix, Arizona; and San Jose, California. A Metro Survey Area is a geographical unit for which Arbitron, a company that surveys radio listeners, furnishes radio stations, advertisers, and advertising agencies in a particular area with data to aid in evaluating radio size composition.

III. Applicability

This final Judgment applies to Univision and HBC, both individually and jointly, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV. Exchange or Entravision Shares

A. Univision is hereby ordered and directed, prior to closing of the Univision/HBC Merger, to exchange all of its Entravision Class A and Class C common stock for a nonvoting equity interest with rights and restrictions as specified in the Certificate of Designations. Preferences and Rights of Series U Preferred Stock (attached hereto as Schedule A and made a part of this Final Judgment).

B. Univision is hereby ordered and directed, prior to closing of the Univision/BBC Merger, to provide written certification and supporting documentation to plaintiff that all voting and director rights associated with Entravision's Class C common shares contained in Univision's First Restated Certificate of Incorporation, dated July 24, 2000, and Entravision's Second Amended and Restated Bylaws, dated July 11, 2002, have been eliminated.

V. Divestiture of Entravision Holdings

A. Defendants are hereby ordered and directed, in accordance with the terms of this Final Judgment, on or before three (3) years from the date of filing of this Final Judgment, to divest that portion of the Entravision Holdings sufficient to cause defendants to own no more than fifteen (15) percent of all outstanding shares of Entravision on a fully converted basis. On or before six (6) years from the date of this Final Judgment, defendants shall divest that portion of the Entravision Holdings sufficient to cause defendants to own no more than ten (10) percent of all outstanding shares of Entravision on a fully converted basis.

B. Defendants are enjoined and restrained from the date of the filing of this Final Judgment until the completion of the divestitures required by Section V.A from acquiring, directly or indirectly, any additional share of Entravision stock, except pursuant to a transaction that does not increase defendants' proportion of the outstanding equity of Entravision, such as a stock split, stock dividend, rights offering, recapitalization, reclassification, merger, consolidation, or corporate reorganization. Any additional Entravision equity acquired by defendants as specifically permitted in this Section V.B. shall be part of the Entravision Holdings and be subject (1) the divestiture obligations of Section V.A of this Final Judgment: and (2) to the rights and restrictions set forth in Section IV.A and embodied in the attached Certificate of Designations, Preferences and Rights of Series U Preferred Stock.

C. Upon completion of the divestitures required by Section V.A. defendants may acquire additional shares of Entravision, but defendants are enjoined and restrained from owning any more than ten (10) percent of all outstanding shares of Entravision on a fully converted basis. Any additional Entravision shares acquired by defendants shall be subject to the rights and restrictions set forth in Section IV.A and embodied in the attached Certificate of Designations. Preferences and Rights of Series U Preferred Stock.

D. The divestitures required by Section V.A may be made by open market sale, public sale, repurchase by Entravision, or a combination thereof. Such divestitures shall not be made by private sale or placement to any person who provides Spanish-language radio broadcasting services other than Entravision unless plaintiff, in its sole discretion, shall otherwise agree in writing.

E. Univision shall notify plaintiff no less than sixty (60) calendar days prior to the expiration of each of the time periods for the divestitures required by Section V.A of this Final Judgment of the arrangements it has made to complete each required divestiture in a timely fashion.

VI. Entravision Governance

A. From the date of the filing of this Final Judgment and until its expiration, defendants are enjoined and restrained, directly or indirectly, from:

1. Suggesting or nominating, individually or as part of a group, any candidate for election to Entravision's Board of Directors, or having any officer, director, manager, employee, or agent serve as an officer, director, manager, employee, or in a comparable position with or for Entravision:

2. Participating in, being present at, or receiving any notes, minutes, or agendas of, information from, or any documents distributed in connection with, any nonpublic meeting of Entravision's Board of Directors or any committee thereof, or any other governing body of Entravision. For purposes of this provision, the term ''meeting'' includes any action taken by consent of the relevant directors in lieu of a meeting:

3. Voting or permitting to be voted any Entravision shares that defendants own, provided, however, that Univision shall have the right to vote on matters arising under the attached Certificate of Designations. Preferences and Rights of Series U Preferred Stock:

4. Using or attempting to use any ownership interest in Entravision to exert any influence over Entravision in the conduct of Entravision's radio business:

5. Using or attempting to use any rights or duties under any television affiliation agreement or relationship between Univision and Entravision (including any duties Univision may have as national television sales representative for Entravision), to influence Entravision in the conduct of Entravision's radio business: and

6. Communicating to or receiving from any officer, director, manager, employee, or agent or Entravision any nonpublic information regarding any aspect of defendants' or Entravision radio business, including any plans or proposals with respect thereto. Nothing in this prohibition, however, is intended to prevent: (1) Entravision from advertising its radio business on defendants' stations or to prevent defendants from advertising on Entravision stations: (2) joint promotions between Entravision and defendants and communications regarding the same; (3) Univision from hiring Entravision personnel or Entravision from hiring Univision personnel: and (4) nonpublic communications regarding industry-wide issues or possible potential business transactions between the two companies provided that such communications do not violate the antitrust laws or any other applicable law or regulation.

B. Defendants are enjoined and restrained from preventing, or attempting to prevent, Entravision from making any changes in any corporate governance documents (including its First Restated Certificate of Incorporation and Second Amended and Restated Bylaws) to implement the prohibitions contained in Section VI.A.

C. Defendants are enjoined and restrained from exercising the rights contained in Section D(i) of the attached Certificate of Designations, Preferences and Rights of Series U Preferred Stock except in connection with a decision by Entravision to merge, consolidate or otherwise reorganize Entravision with or into one or more entities which results in a transfer of all or substantially all of the assets of Entravision or a transfer of a majority of the voting power of Entravision.

VII. Permitted Conduct

A. Nothing in this Final Judgment shall prohibit individual managers, agents, and employees of defendants, other than individual directors and officers of defendants, from holding, acquiring, or selling shares of Entravision stock solely for personal investment, and any shares so held will not be subject to the requirements of Sections IV and V of this Final Judgment.

B. Nothing in this Final Judgment shall prohibit individual directors or officers of defendants from continuing to hold, sell, or otherwise dispose of shares of Entravision stock acquired prior to the filing of this Final Judgment and held solely for personal investment, and any shares so held will not be subject to the requirements of Sections IV and V of this Final Judgment. Individual directors and officers of defendants shall not acquire any additional shares of Entravision stock after the filing of this Final Judgment.

C. Nothing in this Final Judgment shall prohibit defendants from agreeing with Entravision to terminate the rights under Section D of the attached Certificate of Designations. Preferences and Rights of Series U Preferred Stock.

D. Nothing in this Final Judgment shall prohibit defendants from entering into a transaction in which Univision would acquire a majority of the voting securities of Entravision so long as the transaction is subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a; provided however, that Univision shall not acquire or retain any direct or indirect interest in Entravision's radio assets in any of the Overlap Markets as part of that transaction without the approval of plaintiff, in its sole discretion.

VIII. General Powers and Duties of the Trustee

In the event that plaintiff, in its sole discretion, determines (a) that, upon receipt of the notice called for in Section V.E. defendants have not made arrangements that will result in completion of any divestiture within the time limits specified in Section V.A, or (b) that defendants have not completed any of the divestitures required in Section V.A. within the specified time limits, the Court shall, upon application of plaintiff, appoint a trustee selected by plaintiff to effect such divestiture. Plaintiff may request, and the Court may appoint, a trustee before any of the time periods for divestiture specified in Section V.A. expire. The following provisions apply to the trustee:

A. After the appointment of a trustee becomes effective, only that trustee shall have the right to sell the Divestiture Assets. The trustee shall have the power and authority to accomplish the divestitures to an acquirer(s) acceptable to plaintiff at such price and on such terms as are then obtainable upon the best reasonable effort by the trustee, and shall have such other powers as the Court shall deem appropriate. The trustee may hire at the cost and expense of defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestitures.

B. Defendants shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to plaintiff and the trustee within ten (10) calendar days after the trustee has provided the notice required under sectioons VIII.E and F.

C. The trustee shall serve at the cost and expense of defendants on such terms and conditions as plaintiff approves, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the Divestiture Assets and based on a fee arrangement providing the trustee with incentives based on the price and terms of the divestitures and the speed with which they are accomplished.

D. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestitures. The trustee and any consultants, accountant, attorney's, and other persons retained by the trustee shall have full and complete access to all information held by defendants relating to the Divestiture Assets. Defendants shall take no action to interfere with or impede the trustee's accomplishment of the divestitures.

E. After his or her appointment becomes effective, the trustee shall file monthly reports with the Court and plaintiff, setting forth the trustee's efforts to accomplish the divestitures ordered under this Final Judgment. To the extent that such reports contain information that the trustee deems confidential, such reports shall not be in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring , entered into negotiations to acquire, or was contacted or made an

inquiry about acquiring, any interest in the Divestiture Assets by means of private sale or placement, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

F. If the trustee has not accomplished such divestitures within sixty (60) calendar days after his or her appointment, the trustee shall promptly file with the Court a report setting forth: (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustees judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations. To the extent such reports contain in formation that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee at the same time shall furnish such reports to plaintiff, who shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such order as it deems appropriate to carry out the purpose of this Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

IX. Compliance

A. Defendants shall maintain an antitrust compliance program which shall include designating, within thirty (30) days of filing of this Final Judgment, an Antitrust Compliance Officer with responsibility for achieving compliance with this Final Judgment. The Antitrust Compliance Officer shall, on a continuing basis, supervise the review of current and proposed activities to ensure compliance with this Final Judgment. In the event that individual is unable to perform his or her duties, defendants shall appoint, subject to plaintiff's approval, a replacement Antitrust Compliance Officer within five (5) working days. Should defendants fail to appoint a replacement acceptable to plaintiff within this time period, plaintiff shall appoint a replacement.

B. The Antitrust Compliance Officer shall be responsible for accomplishing the following activities:

(1) Distributing within forty-five (45) days of the filing of this Final Judgment, a copy of this Final Judgment to each current director and each current officer, and obtaining within ninety (90) days from the filing of this Final Judgment and retaining for the duration of this Final Judgment, a written certification from each such director or officer that he or she: (a) Has received, read, understands, and agrees to abide by the terms of this Final Judgment; (b) understands that failure to comply with this Final Judgment may result in conviction for contempt of court: and (c) is not aware of any violation of this Final Judgment that has not been reported to plaintiff.

(2) Distributing within forty-five (45) days of the filing of this Final Judgment, a copy of this Final Judgment to each employee and any manager of any such employee who has any responsibility for or authority over the sale of advertising time on radio stations, and obtaining within ninety (90) days from the filing of this Final Judgment and retaining for the duration of this Final Judgment, a written certification from each such employee or manager that he or she: (a) Has received this Final Judgment and has read, understands, and agrees to abide by the terms of Section VI of this Final Judgment; (b) understands that failure to comply with Section VI of this Final Judgment may result in conviction for contempt of court; (c) is not aware of any violation of Section VI of this Final Judgment that has not been reported to plaintiff.

(3) Obtaining, within thirty (30) days from the time of such succession, a written certification from each director or officer identified in Section IX.B.1 who succeeds to such a position that he or she: (a) Has received, read, understands, and agrees to abide by the terms of this Final Judgment: (b) understands that failure to comply with this Final Judgment may result in conviction for contempt of court; and (c) is not aware of any violation of this Final Judgment that has not been reported to plaintiff.

(4) Obtaining within thirty (30) days from the time of such succession, a written certification from each employee or manager identified in Section IX.B.2. who succeeds to such a position that he or she: (a) Has received this Final Judgment and has read, understands, and agrees to abide by the terms of Section VI of this Final Judgment; (b) understands that failure to comply with Section VI of this Final Judgment may result in conviction for contempt of court; and (c) is not aware of any violation of Section VI of this Final Judgment that has not been reported to plaintiff.

(5) Obtaining annually thereafter, and retaining for the duration of this Final Judgment, a written certification from (a) each director; (b) each officer with responsibility for or authority over the sale of advertising time on radioi stations; (c) the individual or individuals with primary operational responsibility for the Univision Television Group (currently the co-Presidents of UTG); and (d) the individual or individuals with primary supervisory responsibility for National Sales within the Univision Television Group (currently the Senior Vice President of National Sales for UTG), that he or she: (i) Has received, read, understands, and agrees to abide by the terms of this Final Judgment; (ii) understands that failure to comply with this Final Judgment may result in conviction for contempt of court; and (iii) is not aware of any violation of this Final Judgment that has not been reported to plaintiff.

C. Within sixty (60) days of filing of this Final Judgment, defendants shall certify to plaintiff that it has: (1) Designated an Antitrust Compliance Officer, specifying his or her name, business address, and telephone number: and (2) distributed the Final Judgment in accordance with Section IX.B.1 and 2.

D. For the term of this Final Judgment, on or before each annual anniversary of the date of its filing, defendants shall file with plaintiff a statement as to the fact and manner of its compliance with the provisions of Section V, VI, and IX.B, including a statement of the percentage of all outstanding shares of Entravision owned by defendants.

E. If the Antitrust Compliance Officer or any of defendants' director, officers, or employees learn of any violation of this Final Judgment, defendant shall: (1) Within three (3) business days take appropriate action to terminate or modify the activity so as to assure compliance with this Final Judgment, and (2) within ten (10) business days notify plaintiff of any such violation and the actions taken with respect to it.

X. Plaintiff's Access and Inspection

A. For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, duly authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

(1) Access during defendants' office hours to inspect and copy, or at plaintiff's option, to require defendants to provide copies of, all records and documents in its possession or control relating to any matters contained in this Final Judgment; and

(2) To interview, either informally or on the record, defendants' director, officers, employees, agents or other persons, who may have their individual counsel present, relating to any matters contained in this Final Judgment. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit written reports, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this Section shall be divulged by plaintiff to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If, at the time information or documents are furnished by defendants to plaintiff, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material. ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then plaintiff shall give defendants ten (10) calendar days' notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendants are not a party.

XI. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish any violations of its provisions.

XII. Expiration of Final Judgment

Unless extended by this Court, this Final Judgment shall expire ten (10) years from the date of its entry.

XIII. Public Interest Determination

Entry of this Final Judgment is in the public interest.

DATED:lll

Court approval subject to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16.

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United States District Judge

Certificate of Designations, Preferences and Rights of Series U Preferred Stock of Entravision Communications Corporation

Pursuant to Section 151 of the General Corporation Law of the State of Delaware:

Whereas, Entravision Communications Corporation, a corporation organized and existing under the laws of the State of Delaware (this ''Corporation''), does hereby certify that, pursuant to the authority conferred on the Board of Directors of this Corporation by the First Restated Certificate of Incorporation, as amended, of this Corporation in accordance with Section 151 of the General Corporation Law of the State of Delaware, the Board of Directors of this Corporation adopted the following resolution establishing a new series of preferred stock of this Corporation.

Resolved, that pursuant to the authority conferred on the Board of Directors of this Corporation by Article 4 of the First Restated Certificate of Incorporation, as amended, the Board of Directors of this Corporation hereby establishes a series of the authorized preferred stock of this Corporation, $0.0001 per value per share, which series will be designated as ''Series U Preferred Stock,'' and which will consist of 369,266 shares and will have the following rights, preferences, privileges and restrictions (capitalized terms not defined herein shall have the meaning given to such terms in the First Restated Certificate of Incorporation, as amended, of this Corporation):

A. *Dividends and Distributions.* The holders of shares of Series U Preferred Stock will be entitled to participate with the holders of Class A Common Stock with respect to any dividend declared on the Class A Common Stock in proportion to the number of shares of Class A Common Stock issuable upon conversion of the shares of Series U Preferred Stock held by them.

B. *Liquidation Preference.* (i) In the event of any liquidation, dissolution or winding up of this Corporation, either voluntary or involuntary, subject to the rights of the Series A Preferred Stock and any other series of Preferred Stock to be established by the Board of Directors of this Corporation (collectively, the ''Senior Preferred Stock''), the holders of the Series U Preferred Stock shall be entitled to receive, after any distribution with respect to the Senior Preferred Stock and prior to and in preference to any distribution of any of the assets of this Corporation to the holders of Common Stock by reason of their ownership thereof, $0.0001 for each share (as adjusted for any stock split, stock division or consolidation) of Series U Preferred Stock then-outstanding.

(ii) Upon the completion of the distribution required by subparagraph (i) of this Section B, the remaining assets of this Corporation available for distribution to stockholders shall be distributed among the holders of Series U Preferred Stock and Common Stock pro rata based on the number of shares of Common Stock held by each (assuming conversion of all such Series U Preferred Stock.)

C. *Voting.* Except as provided in this Certificate of Designations, the holders of shares of Series U Preferred Stock will have no right to vote on any matters, questions or proceedings of this Corporation including, without limitation, the election of directors.

D. *Protective Provisions.* So long as Univision Communications Inc. (''Univision''), or any Permitted Transferee of Univision, owns at least 65,950 shares of Series U Preferred Stock, without the consent of the holders of at least a majority of the shares of Series U Preferred Stock then outstanding, in their sole discretion, voting as a separate series, given in writing or by vote at a meeting of such called for such purpose, this Corporation will not:

(i) Merge, consolidate or enter into a business combination, or otherwise reorganize this Corporation with or into one or more entities (other than a merger of a wholly-owned subsidiary of this Corporation into another wholly-owned subsidiary of this Corporation);

(ii) Dissolve, liquidate or terminate this Corporation;

(iii) Directly or indirectly dispose of any interest in any FCC license with respect to television stations which are affiliates of Univision Communications Inc.;

(iv) Amend, alter or repeal any provision of the Certificate of Incorporation or bylaws of this Corporation or this Certificate of Designations, each as amended, so as to adversely affect any of the rights, preferences, privileges, limitation's or restrictions provided for the benefit of the holders of the Series U Preferred Stock; or

(v) Issue or sell, or obligate itself to issue or sell, any additional shares of Series U Preferred Stock, or any securities that are convertible into or

exchangeable for shares of Series U Preferred Stock.

E. *Conversion.*

(i) *Voluntary Conversion.* Each share of Series U Preferred Stock shall convert automatically without any further action by the holder thereof into a number of shares of Class A Common Stock determined in accordance with Section E(ii) upon its sale, conveyance, assignment, hypothecation, disposition or other transfer (each a ''Transfer'') to any third party other than an ''affiliate'' (as such term is defined in Rule 405 promulgated under the Securities Act of 1933, as amended) of the transferor and may be so converted at the option of the holder thereof in connection with any such Transfer.

(ii) *Conversion Rate.* Each share of Series U Preferred Stock shall be convertible in accordance with Section E(i) into the number of shares of Class A Common Stock that results from multiplying (x) l by (y) the conversion rate for the Series U Preferred Stock that is an effect at the time of conversion (the ''Conversion Rate''). The Conversion Rate for the Series U Preferred Stock initially shall be 100. The Conversion Rate shall be subject to adjustment from time to time as provided in this Certificate of Designations. All references to the Conversion Rate herein mean the Conversion Rate as so adjusted.

(iii) *Mandatory Conversion.* When and if this Corporation is authorized to issue a class of Common Stock that has generally the same rights, preferences, privileges and restrictions as the Series U Preferred Stock (other than the liquidation preference provided for in Section B), the final terms of such class of Common Stock to be mutually agreed upon by this Corporation and the holders of the Series U Preferred Stock, then this Corporation shall have the right, without any further action by the holder of the Series U Preferred Stock, to cause each share of Series U Preferred Stock to convert into the number of shares of Class U Common Stock that results from multiplying (x) l by (y) the Conversion Rate. The Conversion of the Series U Preferred Stock pursuant to this subsection D(iii) shall be deemed to occur on the date this Corporation deposits written notice of such conversion in the United States mail, postage prepaid, and addressed to the holder of the Series U Preferred Stock at its address appearing on the books of this Corporation.

(iv) *Subdivisions: Combinations.* In the event this Corporation should at any time prior to the conversion of the Series U Preferred Stock fix a record date for the effectuation of a split or subdivision of the outstanding shares of Class A Common Stock or the determination of holders of Class A Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock, then, as of such record date (or the date of such dividend, distribution, split or subdivision if no record date is fixed), the Conversion Rate shall be appropriately decreased so that the number of shares of Class A Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase in the aggregate number of shares of Class A Common Stock outstanding. If the number of shares of Class A Common Stock outstanding at any time prior to the conversion of the Series U Preferred Stock is decreased by a reverse split or combination of the outstanding shares of Class A Common Stock, then, following the record date for such reverse split or combination, the Conversion Rate shall be appropriately increased so that the number of shares of Class A Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in outstanding shares.

(v) *Recapitalizations.* If at any time or from time to after the effective date of this Certificate of Designations there is a recapitalization, reclassification, reorganization or similar event, then in any such event each holder of a share of Series U Preferred Stock shall have the right thereafter to convert such share into the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification, reorganization or other change by a holder of the number of shares of Class A Common Stock into which such share of Series U Preferred Stock could have been converted immediately prior to such recapitalization, reclassification, reorganization, or other change, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof.

(vi) *No Impairment.* This Corporation will not, by amendment of its Certificate of Incorporation or this Certificate of Designations (except in accordance with applicable law) or through any reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed under this Section E by this Corporation, but will in good faith assist in the carrying out of all the provisions of this Section E and in the taking of all such action as may be necessary or appropriate in order to protect the conversion rights of the holders of Series U Preferred Stock against impairment.

(vii) *Unconverted Shares.* If less than all of the outstanding shares of Series U Preferred Stock are converted pursuant to Sections E(i) and E(iii) above, and such shares are evidenced by a certificate representing shares in excess of the shares being converted and surrendered to this Corporation in accordance with the procedures as the Board of Directors of this Corporation may determine, this Corporation shall execute and deliver to or upon the written order of the holder of such certificate, without charge to the holder, a new certificate evidencing the number of shares of Series U Preferred Stock not converted. No fractional shares shall be issued upon the conversion of any share or shares of Series U Preferred Stock, and the number of shares to be issued shall be rounded to the nearest whole share.

(viii) *Reservation.* This Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Class A Common Stock, to effect conversions, such number of duly authorized shares of Class A Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Series U Preferred Stock; and if at any time the number of authorized but unissued shares of Class A Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Series U Preferred Stock; in addition to such other remedies as shall be available to the holder of the Series U Preferred Stock, this corporation will take such corporate action as may, in the opinion of counsel, be necessary to increase its authorized but unissued shares of Class A Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Corporation's Certificate of Incorporation.

F. *Redemption by this Corporation.* The Series U Preferred Shares shall not be redeemable by this Corporation.

G. *Reacquired Shares.* Any shares of Series U Preferred Stock which will have been converted will be retired and cancelled promptly after the acquisition thereof. All such shares will upon their cancellation become authorized but unissued shares of Preferred Stock and may be reissued as part of a new series of Preferred Stock subject to the conditions and restrictions on issuance

set forth herein, in the Certificate of Incorporation, or in any other certificate or designations creating a series or any similar stock or as otherwise required by law.

Resolved, further, that the officers of this Corporation be, and each of them hereby is, authorized and empowered on behalf of this Corporation to execute, verify and file a certificate of designations of preferences in accordance with Delaware law.

In Witness whereof, Entravision Communications Corporation has caused this certificate to be duly executed by its duly authorized officers this day of March, 2003.

Entravision Communications Corporation
By: lllllllllllllllllll
Walter F. Ulloa,
Chairman and Chief Executive Officer.
By: lllllllllllllllllll
John F. DeLorenzo,
Chief Financial Officer.

[FR Doc. 03–12746 Filed 5–20–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Village Voice Media, LLC, & NT Media, LLC; Public Comments and Plaintiff's Response

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) and (d), the United States hereby publishes below the written comments received on the proposed Final Judgment in *United States of America* v. *Village Voice Media, LLC, and NT Media, LLC,* Civil Action No. 1:03CV0164, filed in the United States District Court for the Northern District of Ohio, together with the United States' response to the comments.

Copies of the comments and the United States' response are available for inspection at the United States Department of Justice, Antitrust Division, 325 Seventh Street, NW., Suite 300, Washington, DC 20530, and at the Office of the Clerk, United States District Court for the Northern District of Ohio, Carl B. Stokes United States Court House, 801 West Superior Avenue, Cleveland, OH 44113–1830. Copies of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,
Director of Operations.

Response to Public Comments

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (''APPA'' or ''Tunney Act''), the United States hereby responds to the public comments received regarding the Proposed Final Judgment in this case.

I. Background

On January 27, 2003, the United States filed the Complaint in this matter to terminate the Defendants' illegal agreement to allocate markets for advertisers in, and readers of, alternative newsweeklies in metropolitan Cleveland, Ohio, and Los Angeles, California, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. Simultaneously with the filing of the Complaint, the United States filed a Proposed Final Judgment. A Competitive Impact Statement (''CIS'') was also filed with the Court on February 3, 2003, and published in the **Federal Register**, along with the Proposed Final Judgment, on February 12, 2003 (*see* 68 FR 7132). Pursuant to 15 U.S.C. 16(c), a summary of the terms of the Proposed Final Judgment and CIS was published in The Plain Dealer during the period of February 6 through 12, 2003, and The Washington Post, a newspaper of general circulation in the District of Columbia, during the period of February 14 through 20, 2003.

As explained more fully in the Complaint and CIS, prior to entering into their unlawful agreement, Defendants NT Media (''New Times'') and Village Voice Media were head-to-head competitors in publishing alternative newsweeklies in Cleveland and Los Angeles. In October 2002, New Times agreed to shut down its Los Angeles alternative newsweekly, the New Times Los Angeles, if Village Voice Media closed its newsweekly in Cleveland, the Cleveland Free Times. Thus, Defendants ''swapped'' markets, leaving New Times with a monopoly in Cleveland and Village Voice Media with a monopoly in Los Angeles. This unlawful agreement eliminated the competition that had brought advertisers in both cities lower advertising rates, more promotional opportunities and better service, and that had benefitted readers with a higher quality product.

The Proposed Final Judgment requires, in part, that New Times and Village Voice Media terminated their unlawful agreement, allow affected advertisers in Los Angeles and Cleveland to terminate their contracts, notify the United States before entering into any merger, sale, or joint venture involving their alternative newsweeklies, and divest the assets of the New Times Los Angles and the Cleveland Free Times to new entrants in those markets. The proposed consent decree also prohibits the companies from entering into any market or customer allocation agreements in the future.

The sixty-day period for public comment expired on April 21, 2003. As of today, the United States has received written comments from; (1) Citizens for Voluntary Trade, whose president filed an amicus motion with this Court, (2) Gary Beberman, and (3) Denise D'Anne. The United States has carefully considered the views expressed in these comments, but nothing in the comments has altered the United States' conclusion that the Proposed Final Judgment is in the public interest. Pursuant to section 16(d) of the Tunney Act, the United States is now filing with this Court its response to such comments. Once these comments and this response are published in the **Federal Register**, the United States will have fully compiled with the Tunney Act and will file a motion for entry of the Proposed Final Judgment.

II. Response to Public Comments

A. Citizens for Voluntary Trade's Comment

In its written comment, Citizens for Voluntary Trade (''CVT'') states that the First Amendment to the U.S. Constitution preempts the Proposed Final Judgment, as ''[e]ven the most 'anti-competitive' conduct is protected by the First Amendment.'' (CVT Comment at 2, a copy of which is attached at Exhibit A.)

The Supreme Court as long ago as 1945 dismissed this assertion. The restraints imposed by these private arrangements are not protected by the First Amendment. *Citizen Publishing Co.* v. *United States,* 394 U.S. 131 (1969); *Associated Press* v. *United States,* 326 U.S. 1, 20 (1945). Neither news gathering nor news dissemination are being regulated by the Proposed Final Judgment, which addresses only the Defendants' per se illegal restraints on certain business or commercial practices. The Defendants' unreasonable restraints on competition—which the Proposed Final Judgment remedies—comport neither with the antitrust laws nor with the First Amendment. As the Supreme Court held in the Associated Press case, and reiterated twenty-four years later in the Citizen Publishing decision:

> It would be strange indeed * * * if the grave concern for freedom of the press which prompted adoption of the First Amendment should be read as a command that the government was without power to protect that freedom. The First Amendment, far from providing an argument against application of the Sherman Act, here provides powerful

reasons to the contrary. That Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public, that a free press is a condition of a free society. Surly a command that the government itself shall not impede the free flow of ideas does not afford nongovernmental combinations a refuge if they impose restraints upon that constitutionally guaranteed freedom. Freedom to publish means freedom for all and not for some. Freedom to publish is guaranteed by the Constitution, but freedom to combine to keep others from publishing is not. Freedom of the press from governmental interference under the First Amendment does not sanction repression of that freedom by private interests. The First Amendment affords not the slightest support for the contention that a combination to restrain trade in news and views has any constitutional immunity.[1]

In his *amicus* brief, S.M. Oliva, CVT's president, does not address the merits of the Proposed Final Judgment but rather objects to certain procedural aspects of the Proposed Final Judgment. In particular, Oliva alleges that the United States intentionally violated the Tunney Act by requiring the Defendants to complete certain divestitures within thirty days after the filing of the Complaint. (*Amicus* brief at 3, a copy of which is attached as Exhibit B.)

First, nothing in the Tunney Act precludes the United States from taking or refraining from certain actions during the sixty-day comment period. The statute also does not prohibit the Defendants from divesting certain assets and refraining from certain action before this Court enters the Proposed Final Judgment.

Second, contrary to Mr. Oliva's assertion, the required divestitures do not preclude this Court from evaluating whether entry of the Proposed Final Judgment is in the public interest or declining to enter the order if it believes the settlement is unacceptable. As Section IV(A) of the Hold Separate Stipulation and Order provides, the United States may withdraw its consent to the Proposed Final Judgment at any time before the entry of the Proposed Final Judgment. Moreover, the Hold Separate Stipulation and Order contemplates that this Court may not enter the Proposed Final Judgment. By divesting certain assets and refraining from any action in furtherance of their illegal market allocation agreement, the Defendants have assumed the risk that the United States might withdraw its consent and proceed to trial or that this Court may decline the Proposed Final Judgment.

[1] Citizen Publ'g, 394 U.S. at 139–40 (quoting Associated Press, 326 U.S. at 20).

Furthermore, the divestitures at issued are common in many other Tunney act proceedings, It is customary in the vast majority of mergers that are resolved by consent in the form of proposed final judgments to permit the defendants to merge at the time when the complaint and proposed final judgment are filed, subject to the defendant's obligations under the proposed final judgment to take steps to divest certain specified assets. In these mergers, the defendants are generally allowed to complete the merger prior to the close of the sixty-day comment period and entry of the final judgment by the court. The defendants in such cases, as here, understand that the proposed final judgment is subject to public comment, that the United States may revoke its consent at any time before the final judgment is entered, and that the final judgment will not be entered unless a court finds that it is in the public interest.

Third, to delay any remedial measures until after the sixty-day comment period expires might undermine the effectiveness of the relief. As the CIS states, ''[g]iven that Defendants had closed the Cleveland Free Times and New Times Los Angeles in October 2002, a quick and effective remedy was necessary to reestablish competition.'' (CIS at 14.) Readers and advertisers will sooner benefit in Cleveland and Los Angeles as a result of a quick and effective divestiture.

B. Gary Beberman's Comment

In his e-mail, Mr. Beberman writes that the United States ''may have been correct that the Village voice was colluding in anti-competitive behavior'' but that ''their actions were merely attempts to survive.'' (A copy of Mr. Beberman's comment is attached as Exhibit C.) Mr. Beberman, however, never states whether he supports or opposes entry of the Proposed Final Judgment. And any critique of whether this investigation should have been brought in the first place amounts to a challenge of the initial exercise of the United States' prosecutorial discretion, which is outside the scope of this proceeding. *See, e.g., United States* v. *Western Elec. Co.,* 993 F.2d 1572, 1577 (D.C. Cir. 1993)(noting that Tunney Act proceeding does not permit ''de novo determination of facts and issues'' because ''[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General'')(citations omitted). Likewise, Mr. Beberman's comments about another case, *United States* v. *Microsoft Corp.,* are extraneous to this matter. (Also, the sixty-day comment period in that case ended on January 28, 2002, and the United States District Court for the District of Columbia entered the final judgment on November 12, 2002.)

C. Denise D'Anne's Comment

Mr. D'Anne thanked the United States for pursuing this action. (A copy of Ms. D'Anne's comment is attached as Exhibit D.)

III. Conclusion

After careful consideration of these public comments, the United States has concluded that entry of the Proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violation alleged in the Complaint, and is therefore in the public interest. Pursuant to seciton 16(d) of the APPA, the United States is submitting these public comments and this response to the **Federal Register** for publication. After these comments and this response are published in the **Federal Register**, the United States will move this Court to enter the Proposed Final Judgment.

Dated: May 1, 2003.

Maurice E. Stucke,
Carol A. Bell,
Matthews J. Bester,
Attorneys for the United States, United States Department of Justice, Antitrust Division, Litigation III Section, 325 Seventh Street, NW., Suite 300, Washington, DC 20530, (202) 305–1489 (telephone), (202) 514–1517 (facsimile), Maurice.Stucke@usdoj.gov.

Jon R. Smibert,
Attorney for the United States, United States Department of Justice, Antitrust Division, Cleveland Field Office, 55 Erieview Plaza, Suite 700, Cleveland, Ohio 44114–1816, (216) 522–4070, telephone, (216) 522–8332, facsimile, Jon.Smiber@usdoj.gov.

Certificate of Service

I hereby certify that I served a copy of the foregoing Response to Public Comments via First Class United States Mail, this 1st day of May, 2003, on:

Melanie Sabo,
Preston Gates Ellis & Rouvelas Meeds, LLP, 1735 New York Avenue, NW., Suite 500, Washington, DC 20006–5209, Counsel for Defendant Village Voice Media, LLC.

Joseph Kattan,
Gibson, Dunn & Crutcher, LLP, 1050 Connecticut Avenue, NW., Washington, DC 20036, Counsel for Defendant NT Media, LLC.

Carol A. Bell,
Attorney for the United States, United States Department of Justice, Antitrust Division, Litigation III Section, 325 Seventh Street, NW., Suite 300, Washington, DC 20530, (202) 307–3076.

[FR Doc. 03–12745 Filed 5–20–03; 8:45 am]
BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Global Climate and Energy Project

Notice is hereby given that, on April 16, 2003, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Global Climate and Energy Project has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Toyota Motor Corporation, Aichi, Japan has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Global Climate and Energy Project intends to file additional written notification disclosing all changes in membership.

On March 12, 2003, Global Climate and Energy Project filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on April 4, 2003 (68 FR 16552).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–12747 Filed 5–20–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board Meeting

TIME AND DATE: 8:30 a.m. to 5 p.m. on Monday, June 23–24, 2003.

PLACE: Sheraton North Houston at George Bush Intercontinental Airport, 15700 JFK Boulevard, Houston, TX 77032.

STATUS: Open.

MATTERS TO BE CONSIDERED: Director's report; Panel Presentation on NICs Leadership/Management Training; Tour of the state Texas Department of Criminal Justice, Jester III Unit, the Inner Change Program (a faith-based initiative); Division reports; Up date on Interstate Compact activities; and Quarterly Report by Office of Justice Programs.

CONTACT PERSON FOR MORE INFORMATION: Larry Solomon, Deputy Director, 202–307–3106, ext. 44254.

Morris L. Thigpen,

Director.

[FR Doc. 03–12744 Filed 5–20–03; 8:45 am]

BILLING CODE 4410–36–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–052)]

NASA Advisory Council, Aerospace Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Aerospace Technology Advisory Committee (ATAC).

DATES: Wednesday, June 25, 2003, 8 a.m. to 5 p.m.; and Thursday, June 26, 2003, 8 a.m. to 12 noon.

ADDRESSES: National Aeronautics and Space Administration, 300 E Street, SW., Room 6H46 (MIC 6), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mrs. Mary-Ellen McGrath, Code RG, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–4729.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Opening Remarks
—Status of FY 2004 Aeronautics Initiatives
—Subcommittee Reports
—Status of Joint Program Office
—Potential Items for FY 2005 Budget
—Closing Comments

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information: Full name; gender; date/place of birth; citizenship; visa/greencard information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of attendee. To expedite admittance, attendees can provide identifying information in advance by contacting Mary-Ellen McGrath via email at *mary.E.mcgrath@nasa.gov* or by telephone at 202–358–4729. Attendees will be escorted at all times.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–12726 Filed 5–20–03; 8:45 am]

BILLING CODE 7510–01–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Heather Gottry, Acting Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to

Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* June 2, 2003.

Time: 8:30 a.m. to 5 p.m.

Room: 415.

Program: This meeting will review applications for Humanities Focus Grants, submitted to the Division of Education Programs at the April 15, 2003 deadline.

2. *Date:* June 30, 2003.

Time: 8:30 a.m. to 5:30 p.m.

Room: 415.

Program: This meeting will review applications for Colleges and Universities, submitted to the Office of Challenge Grants at the May 1, 2003 deadline.

Heather Gottry,

Acting Advisory Committee Management Officer.

[FR Doc. 03–12770 Filed 5–20–03; 8:45 am]

BILLING CODE 7536–01–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SES Performance Review Board

AGENCY: The National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: This notice announces the membership of the Performance Review Board of the National Endowment for the Humanities.

FOR FURTHER INFORMATION CONTACT: Timothy G. Connelly, Director of Human Resources, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; telephone (202) 606–8415.

SUPPLEMENTARY INFORMATION: 5 U.S.C. 3393 and 4314(c)(1) through (5) require each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, both an executive resources board and a performance review board for SES. The National Endowment for the Humanities has a combined Board, which is referred to as the Executive Resources and Performance Review Board (ERPRB).

Effective July 1, 2003, the members of the National Endowment for the Humanities SES Performance Review Board are Jeffrey Thomas, Assistant Chairman for Planning and Operations—Board Chair, Cherie Harder, Senior Counselor to the Chairman, and Stephen Ross, Director, Office of Challenge Grants. All members will serve until replaced.

Bruce Cole,

Chairman.

[FR Doc. 03–12771 Filed 5–20–03; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On March 26, 2003, the National Science Foundation published a notice in the **Federal Register** of a permit application received. A permit was issued on May 15, 2003 to: Werner Stambach, Permit No. 2004–001.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 03–12694 Filed 5–20–03; 8:45 am]

BILLING CODE 7555–01–M

RAILROAD RETIREMENT BOARD

Proposed Collection: Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways top enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Statement of Claimant or Other Person; OMB 3220–0183. To support an application for an annuity under Section 2 of the Railroad Retirement Act (RRA) or for unemployment benefits under Section 2 of the Railroad Unemployment Insurance Act (RUIA), pertinent information and proofs must be furnished for the RRB to determine benefit entitlement. Circumstances may require an applicant or other person(s) having knowledge of facts relevant to the applicant's eligibility for an annuity or benefits to provide written statements supplementing or changing statements previously provided by the applicant. Under the railroad retirement program these statements may relate to changes in annuity beginning date(s), dates for marriage(s), birth(s), prior railroad or non-railroad employment, an applicant's request for reconsideration of an unfavorable RRB eligibility determination for an annuity or various other matters. The statements may also be used by the RRB to secure a variety of information needed to determine eligibility to unemployment and sickness benefits. Procedures related to providing information needed for RRA annuity or RUIA benefit eligibility determinations are prescribed in 20 CFR parts 217 and 320 respectively.

The RRB utilizes Form G–93, *Statement of Claimant or Other Person* to obtain the supplemental or corrective information from applicants or other persons needed to determine applicant eligibility for an RRA annuity or RUIA benefits.

The RRB proposes no changes to Form G–93.

The completion time for Form G–93 is estimated at 15 minutes per response. The RRB estimates that approximately 900 Form G–93's are received annually. Completion is voluntary. One response is requested of each respondent.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092. Written comments

should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 03–12691 Filed 5–20–03; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26047; 812–12770]

The MainStay Funds, et al.; Notice of Application

May 15, 2003.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

Summary of the Application: The requested order would permit certain registered management investment companies to invest uninvested cash and cash collateral in affiliated money market funds in excess of the limits in sections 12(d)(1)(A) and (B) of the Act.

Applicants: The MainStay Funds (''MainStay''), Mainstay VP Series Fund, Inc. (''VP''), Eclipse Funds, Eclipse Funds, Inc., New York Life Investment Management Institutional Funds (''NYLIM Institutional'') and McMorgan Funds (together the ''Funds''), all existing and future series of the Funds (together the ''Portfolios''), New York Life Investment Management LLC (''NYLIM''), MacKay Shields LLC (''MacKay'') and McMorgan & Company LLC (''McMorgan,'' together with NYLIM and Mackay, the ''Adviser''), and any other registered management investment company and series thereof currently or in the future advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser (included in the term ''Adviser'')(each such investment company included in the term ''Funds'' and its series included in the term ''Portfolios'').

Filing Dates: The application was filed on February 12, 2002 and amended on May 9, 2003.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 9, 2003, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC, 20549–0609. Applicants, c/o Paul Schott Stevens, Esq., Dechert, 1775 Eye Street NW., Washington, DC, 20006.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 942–0714, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC, 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Each Fund is registered under the Act as an open management investment company. MainStay and Eclipse Funds are Massachusetts business trusts and consist of twenty-four and four Portfolios, respectively. VP and Eclipse Funds, Inc., are Maryland corporations and are comprised of nineteen and fourteen Portfolios, respectively. McMorgan Funds and NYLIM Institutional are Delaware business trusts and consist of five and one Portfolios, respectively. The Portfolio of NYLIM Institutional holds itself out as a money market fund that complies with rule 2a–7 under the Act (together with any future Portfolios that comply with rule 2a–7 under the Act, the ''Money Market Funds'').[1]

2. NYLIM, an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''), serves as investment adviser to the Portfolios. MacKay and McMorgan, investment advisers registered under the Advisers Act, are subadvisers to certain Portfolios. The Adviser serves or may serve as investment adviser to privately managed accounts which are entities that are not pooled investment vehicles (''Managed Accounts''). NYLIM, MacKay and McMorgan are indirect wholly-owned subsidiaries of New York Life Insurance Company.

3. Portfolios that are not Money Market Funds (the ''Investing Funds'') and Managed Accounts have, or are expected to have, cash reserves (''Uninvested Cash''). Such Uninvested Cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, strategic reserves, matured investments, liquidated proceeds from investment securities, or new investor monies. Certain Investing Funds and Managed Accounts also may participate in a securities lending program under which an Investing Fund may lend its portfolio securities to registered broker-dealers or other institutional investors (''Securities Lending Program''). The loans will be continuously secured by collateral, equal at all times to at least the market value of the securities loaned (such collateral, when in the form of cash, ''Cash Collateral'' and together with Uninvested Cash, ''Cash Balances''). The Managed Accounts also may have Cash Collateral.

4. Applicants request an order to permit the Investing Funds and Managed Accounts to invest their Cash Balances in shares of one or more Money Market Funds and the Money Market Funds to sell their shares to, and redeem their shares from, the Investing Funds and Managed Accounts and the Adviser to effect the proposed transactions. Investment of Cash Balances in shares of the Money Market Funds will be made consistent with each Investing Fund's investment restrictions and policies as set forth in its prospectus and statement of additional information. Applicants believe that the proposed transactions may reduce transaction costs, create more liquidity, increase returns, and further diversify holdings.

5. Applicants state that the Managed Accounts and Money Market Funds engage in the purchase and sale transactions with each other in reliance of rule 17a–7 under the Act. Applicants seek relief to permit these interfund transactions to continue in the event that the Managed Accounts become 5% or more owners of the Money Market Funds (''Interfund Transactions'').

[1] All existing Funds that currently intend to rely on the requested relief are named as applicants. The term ''Adviser'' shall include successor(s) in interests, which are entities that result from a reorganization of the entity into another jurisdiction or a change in the type of business organization of the entity. Any other existing and future entity that may rely on the relief in the future will do so only in accordance with the terms and conditions of the application.

Applicants' Legal Analysis

I. Investment of Cash Balances in the Money Market Funds

A. Section 12(d)(1) of the Act

1. Section 12(d)(1)(A) of the Act provides, in pertinent part, that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act, in pertinent part, provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act authorizes the Commission to exempt any person, security, or transaction from any provision of section 12(d)(1) if, and to the extent that, such exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(1)(J) from the percentage limitations of sections 12(d)(1)(A) and (B) to permit the Investing Funds to invest Cash Balances in the Money Market Funds.

3. Applicants state that the proposed arrangement would not result in the abuses that sections 12(d)(1)(A) and (B) were intended to prevent. Applicants state that because each Money Market Fund will maintain a highly liquid portfolio, an Investing Fund will not be in a position to gain undue influence over a Money Market Fund through threat of redemption. Applicants represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Money Market Funds sold to and redeemed from the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealers' (''NASD'') Conduct Rules). If a Money Market Fund offers more than one class of securities, each Investing Fund will invest Cash Balances only in the class with the lowest expense ratio at the time of the investment. Before approving any advisory contract with the Adviser for an Investing Fund, its board of directors (the ''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Trustees''), will consider to what extent, if any, the advisory fees charged to the Investing Fund by the Adviser should be reduced to account for reduced services provided to the Investing Funds by the Adviser as a result of the investment of Uninvested Cash in a Money Market Fund. Applicants represent that no Money Market Fund will acquire securities of any other investment company in excess of the limitations contained in section 12(d)(1)(A) of the Act.

B. Section 17(a) of the Act

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of an investment company to include, among others, any person directly or indirectly controlling, controlled by, or under common control with the other person and any person owning, controlling, or holding with power to vote, 5% or more of the other person. Applicants state that, because the Portfolios and Managed Accounts share a common investment adviser, a Portfolio may be deemed to be under common control with each of the other Portfolios, and thus an affiliated person of each of the other Portfolios. In addition, if the relief is granted, an Investing Fund and Managed Account may own more than 5% of certain Money Market Funds and such Investing Funds and Managed Accounts may be deemed affiliated persons of each other. As a result, section 17(a) would prohibit the sale of the shares of a Money Market Fund to the Investing Funds and Managed Accounts, and the redemption of such shares by the Investing Funds and the Managed Accounts.

5. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each investment company concerned, and the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt persons or transactions from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants submit that their request for relief to permit the purchase and redemption of shares of a Money Market Fund by the Investing Funds and Managed Accounts satisfies the standards in sections 6(c) and 17(b) of the Act. Applicants note that shares of the Money Market Funds will be purchased and redeemed at their net asset value, the same consideration paid and received for these shares by any other shareholder. Applicants state that the Investing Funds will retain their ability to invest Cash Balances directly in money market instruments as authorized by their respective investment objectives and policies if they believe they can obtain a higher rate of return or for any other reason. Applicants also state that each Money Market Fund may discontinue selling shares to any of the Investing Funds if the Board of the Money Market Fund or the Adviser determines that such sale would adversely affect the Money Market Fund's portfolio management and operations.

C. Section 17(d) of the Act and Rule 17d–1 under the Act

7. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Applicants state that each Investing Fund and Managed Account, by purchasing shares of the Money Market Funds, each Money Market Fund, by selling shares to and redeeming shares from, the Investing Funds and Managed Accounts, and the Adviser, by effecting the proposed transactions, could be deemed to be participants in a joint enterprise or arrangement within the meaning of section 17(d) of the Act and rule 17d–1 under the Act.

8. Rule 17d–1 permits the Commission to approve a proposed joint transaction covered by the terms of section 17(d) of the Act. In determining whether to approve a transaction, the Commission will consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which participation by the investment company is on a basis different from or less advantageous than that of other participants. Applicants submit that the

investment by the Investing Funds and Managed Accounts in shares of a Money Market Fund would be made on the same basis and indistinguishable from those of any other shareholders. Applicants state that, for the reasons discussed above, the proposed transactions meet the standards for an order under rule 17d–1.

II. Interfund Transactions

9. Applicants state that Money Market Funds and Managed Accounts may rely on rule 17a–7 under the Act to conduct Interfund Transactions. Rule 17a–7 under the Act provides an exemption from section 17(a) for purchase and sale transactions between a registered investment company and an affiliated person of such company (or an affiliated person of an affiliated person), provided certain condition are met, including that the affiliation between the registered investment company and the affiliated person (or an affiliated person of the affiliated person) must exist solely by reason of having a common investment adviser, common officers and/or common directors. Applicants state that by virtue of the Managed Accounts owning 5% or more of the outstanding voting securities of a Money Market Fund, the Managed Accounts and the Money Market Funds would no longer be affiliated solely by reason of having a common investment adviser, common officers and/or common directors.

10. Applicants request relief under sections 6(c) and 17(b) of the Act to permit the Interfund Transactions. Applicants state that to engage in Interfund Transactions, the Managed Accounts and Money Market Funds will comply with rule 17a–7 under the Act in all respects other than the requirement that the parties to the transaction be affiliated persons (or affiliated person of affiliated persons) of each other solely by reason of having a common investment adviser or investment advisers that are affiliated persons of each other, common officer and/or common directors, solely because the Managed Accounts and the Money Market Funds might become affiliated persons within the meaning of sections 2(a)(3)(A) and (B) of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Shares of the Money Market Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 under the Act or service fee (as defined in rule 2830(b)(9) of the NASD's Conduct Rules).

2. No Money Market Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. Each of the Investing Funds will invest Uninvested Cash in, and hold shares of, a Money Market Fund only to the extent that such Investing Fund's aggregate investment of Uninvested Cash in the Money Market Funds does not exceed 25 percent of the Investing Fund's total assets. For purposes of this limitation, each Investing Fund will be treated as a separate investment company.

4. Each Investing Fund, Managed Account and Money Market Fund relying on the order will be advised by the Adviser. An Investing Fund that is subadvised, but not advised, by a NYLIM Adviser may rely on the order provided that the NYLIM Adviser managers the Cash Balances and the Investing Fund is in the same group of investment companies (as defined in section 12(d)(1)(G) of the Act) as the Money Market Fund in which the Investing Fund invests its Cash Balances.

5. Investment of Cash Balances by an Investing Fund in shares of the Money Market Funds will be in accordance with each Investing Fund's respective investment restrictions and will be consistent with each Investing Fund's policies as set forth in its prospectus and statement of additional information.

6. Before the next meeting of the Board is held for the purpose of voting on an advisory contract under section 15 of the Act, the Adviser to the Investing Fund will provide the Board with specific information regarding the approximate cost to the Adviser of, or portion of the advisory fee under the existing advisory contract, attributable to managing the Uninvested Cash of the Investing Fund that can be expected to be invested in the Money Market Funds. In connection with approving any advisory contract for an Investing Fund, the Board, including a majority of the Independent Trustees, shall consider to what extent, if any, the advisory fees charged to the Investing Fund by the Adviser should be reduced to account for reduced services provided to the Investing Fund by the Adviser as a result of the Uninvested Cash being invested in the Money Market Funds. The minute books of the Investing Fund will record fully the Board's consideration in approving the advisory contract, including the considerations referred to above.

7. Before any Investing Fund may participate in a Securities Lending Program, a majority of the Board, including a majority of the Independent Trustees of the Investing Fund, will approve the Investing Fund's participation in the Securities Lending Program. Such trustees also will evaluate the securities lending arrangement and its results no less frequently than annually and determine that any investment of Cash Collateral in the Money Market Funds is in the best interest of the shareholders of such Investing Fund.

8. To engage in Interfund Transactions, the Managed Accounts and Money Market Funds will comply with rule 17a–7 under the Act in all respects other than the requirement that the parties to the transactions be affiliated persons (or affiliated persons of affiliated persons) of each other solely by reason of having a common investment adviser or investment advisers that are affiliated persons of each other, common officers and/or common directors, solely because the Managed Accounts and the Money Market Funds might become affiliated persons within the meaning of sections 2(a)(3)(A) and (B) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–12736 Filed 5–20–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–4781; File No. S7–966]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing of the Plan for Allocation of Regulatory Responsibilities Between the National Association of Securities Dealers, Inc. and the International Securities Exchange, Inc.

May 14, 2003.

Pursuant to section 17(d) of the Securities Exchange of 1934 (''Act'') [1] and Rule 17d–2 thereunder,[2] notice is hereby given that on January 7, 2003, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') and the International Securities Exchange, Inc. (''ISE'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a plan for

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

allocation of regulatory responsibilities relating to options-related sales practices (''ISE/NASD Options-related Sales Practice 17d–2 Plan''). On May 1, 2003, NASD and ISE filed Amendment No. 1 to the ISE/NASD Options-related Sales Practice 17d–2 Plan.[3]

I. Introduction

Section 19(g)(1) of the Act,[4] among other things, requires every national securities exchange and registered securities association (''SRO'') to examine for and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to section 17(d) or 19(g)(2) of the Act.[5] Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). This regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[6] With respect to a common member, section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules and regulations, or to perform other specified regulatory functions.

To implement section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[7] Rule 17d–1, adopted on April 20, 1976,[8] authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with financial responsibility requirements imposed by the Act, or by Commission or SRO rules. When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with applicable financial responsibility rules.

On its face, Rule 17d–1 deals only with an SRO's obligations to enforce broker-dealers' compliance with the financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices, and trading activities and practices.

To address regulatory duplication in these other areas, on October 28, 1976, the Commission adopted Rule 17d–2 under the Act.[9] This rule permits SROs to propose joint plans allocating regulatory responsibilities with respect to common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to and foster the development of a national market system and a national clearance and settlement system, and in conformity with the factors set forth in section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

On September 8, 1983, the Commission approved a plan for allocating regulatory responsibility pursuant to Rule 17d–2 for certain options-related sale practice matters (''Options-related Sales Practice 17d–2 Plan'').[10] Under this plan, the SRO to whom a firm was designated was responsible for conducting options-related sales practice examinations and investigating options-related customer complaints and terminations for cause of associated persons; the designated SRO was also known as the firm's ''Designated Options Examining Authority'' or ''DOEA.'' Under the Options-related Sales Practice Plan, only the AMEX, CBOE, NASD and NYSE were DOEAs. On May 23, 2000, the Commission approved an Amendment to the Options-related Sales Practice Plan that added ISE as a participant.[11] On November 8, 2002, the Commission approved another Amendment that replaced the Options-related Sale Practice Plan in its entirety and, among other things, allocated regulatory responsibilities among all the participants in a more equitable manner (''Revised Options-related Sales Practice 17d–2 Plan'').[12] The current proposed plan between ISE and NASD transfers to the NASD all the regulatory responsibilities for each common member allocated to the ISE under the Revised Options-related Sales Practice 17d–2 Plan.

The text of the proposed ISE/NASD Options-related Sales Practice 17d–2 Plan is as follows:

Agreement Between the National Association of Securities Dealers, Inc., and the International Securities Exchange, Pursuant to Section 17(d) and Rule 17d–2

This agreement (Agreement) pursuant to section 17(d) of the Securities Exchange Act of 1934 (Act) and Rule 17d–2 thereunder is by and between the National Association of Securities Dealers, Inc. (NASD), a Delaware Corporation registered as a national securities association subject to regulation by the Securities and Exchange Commission under the Act, whose principal offices are located at 1735 K Street, NW., Washington, DC 20006, and the International Securities Exchange, Inc. (ISE), a New York corporation whose principal place of business is located at 60 Broad Street, New York, NY 10004 (NASD and ISE are collectively referred to as Parties).

In consideration of the mutual covenants contained hereafter, and in consideration of other valuable consideration, NASD and ISE hereby agree as follows:

1. *Term.* This Agreement shall be effective on the date the SEC approves this Agreement under section 17(d) (Effective Date).

2. *Entities.* ISE is a self-regulatory organization (SRO), as defined in section 3(a)(26) of the Act. NASD is a registered securities association, as defined in section 15A of the Act and an SRO, and is responsible for fulfilling

[3] *See* letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Nancy Sanow, Assistant Director, Division of Market Regulation, SEC, dated April 30, 2003. Amendment No. 1 deleted paragraphs 5.1 and 5.2 of the ISE/NASD Options-related Sale Practice 17d–2 Plan filed on January 7, 2003.

[4] 15 U.S.C. 78s(g)(1).

[5] 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2).

[6] 15 U.S.C. 78q(d). *See also* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session. 32 (1975).

[7] 17 CFR 240.17d–1 and 17 CFR 240.17d–2.

[8] Securities Exchange Act Release No. 12352, 41 FR 18809 (May 3, 1976).

[9] Securities Exchange Act Release No. 12935, 41 FR 49093 (November 8, 1976).

[10] Securities Exchange Act Release No. 20158, 48 FR 41256 (September 14, 1983). The participation in this plan were the American Stock Exchange LLC (''AMEX'') the Chicago Board Options Exchange, Inc. (''CBOE''), the Midwest Stock Exchange, Inc., NASD, the New York Stock Exchange, Inc. (''NYSE''), the Pacific Stock Exchange, Inc. and the Philadelphia Stock Exchange, Inc.

[11] Securities Exchange Act Release No. 42816 (May 23, 2000); 65 FR 34759 (May 31, 2000). This Amendment also updated the corporate names of the AMEX, the Midwest Stock Exchange (now known as the Chicago Stock Exchange, Inc.), and the Pacific Stock Exchange Incorporated (now known as the Pacific Exchange, Inc.).

[12] Securities Exchange Act Release No. 46800, 67 FR 69774 (November 19, 2002).

certain regulatory obligations and performing certain regulatory functions under the Act.

3. *Members.* The Parties have brokers or dealers as their members, and some of the brokers or dealers are members of both Parties (hereinafter, members of both Parties and persons associated with such members are referred to collectively as Common Members). Each Party hereto has regulatory obligations under the Act and the rules of the Party for Common Members.

4. *Structure.* The Parties are participants in a multiparty options 17d–2 Agreement by and among the American Stock Exchange LLC, the Chicago Board Options Exchange, Inc., ISE, NASD, the New York Stock Exchange, the Pacific Exchange Inc., and the Philadelphia Stock Exchange (''Multiparty 17d–2 Agreement''). Under the Multiparty 17d–2 Agreement, ISE is assigned as Designated Options Examining Authority (''DOEA'') for certain Common Members. Under the Multiparty 17d–2 Agreement, a DOEA has examination and enforcement responsibilities (''Regulatory Responsibilities'') relating to compliance by a Common Member and persons associated with such Common Member for certain Common Rules (as defined in the Multiparty 17d–2 Agreement) insofar as they apply to the conduct of accounts for listed options and index options (the ''Covered Rules'').

5. *Services.* NASD shall perform all the Regulatory Responsibilities (as set forth in the Multiparty 17d–2 Agreement, as amended (attached hereto as Exhibit 1–A)), for each Common Member that is allocated to ISE under the Multiparty 17d–2 Agreement as if NASD were the Designated Options Examining Authority (the ''Covered Member'').

6. *Fees.* NASD will charge ISE and ISE shall pay NASD a fee for services performed under this Agreement. In the event that NASD raises its rates in excess of what has been agreed to by the parties, NASD will provide ISE with ninety (90) days advance written notice of its intent. ISE will then have thirty (30) days from the date of such notification to inform NASD that ISE will perform for itself the applicable regulatory responsibilities allocated NASD under the Agreement or enter into an agreement pursuant to applicable rules of the SEC with respect to the performance of such responsibilities. ISE's failure to pay for services performed is a material breach of this Agreement.

7. *Indemnification.* Neither Party, including respective directors, governors, officers, employees and agents, will be liable to the other Party and its directors, governors, officers, employees and agents for liability, loss or damage resulting from any delays, inaccuracies, errors or omissions with respect to its performing or failing to perform regulatory responsibilities, obligations, or functions, except in instances of gross negligence, willful misconduct or reckless disregard, or breach of confidentially. Both Parties understand and agree with each other that the regulatory responsibilities are being performed on a good faith and best effort basis and no warranties, express or implied, are made by either Party to the other Party with respect to any of the responsibilities to be performed by either of these Parties hereunder.

8. *Arbitration.* Any claim, dispute, controversy or other matter in question with regard to the Agreement that cannot be resolved by negotiation between the Parties shall be submitted to arbitration in accordance with the rules and regulations of the American Arbitration Association, provided, however, that (1) submission of any such claim, dispute, controversy or other matter in question to the American Arbitration Association shall not be required if the Parties agree upon another arbitration forum, (2) the foregoing shall not preclude either Party from pursuing all available administrative, judicial or other remedies for infringement of a registered patent, trademark, service mark or copyright, (3) the Parties shall not submit claims for punitive damages and do hereby waive any right to the same, and (4) the arbitrators shall not be authorized to award punitive damages.

9. *SEC Approval.*

(a) The Parties agree to promptly file this Agreement with the SEC for its review and approval.

(b) If approved by the SEC, the Parties agree to send out a joint notice to Covered Members to announce this Agreement.

10. *Special or Cause Examinations.* Nothing in this Agreement shall restrict or in any way encumber the right of a Party to conduct special or cause examinations of Covered Members as either Party, in its sole discretion, shall deem appropriate or necessary.

11. *Definitions.* Unless otherwise defined in this Agreement, or unless the context otherwise requires, the terms used in this Agreement shall have the same meaning as they have under the Act and the rules and regulations thereunder.

12. *Subsequent Parties; Limited Relationship.* This Agreement shall inure to the benefit of and shall be binding upon the Parties hereto and their respective legal representatives, successors, and assigns. Nothing in this Agreement, expressed or implied, is intended to or shall (i) confer on any person other than the Parties hereto, or their respective legal representatives, successors, and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, (ii) constitute the Parties hereto partners or participants in a joint venture, or (iii) appoint one Party the agent of the other.

13. *Assignment.* Neither Party may assign the Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed, provided, however, that either Party may assign the Agreement to a corporation controlling, controlled by or under common control with the assigning Party without the prior written consent of the other Party.

14. *Severability.* Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

15. *Termination.*

(a) *Termination for Cause.* Either Party may terminate the Agreement due to breach by the other Party. The Party aggrieved by the breach shall give written notice to the other Party that the Agreement shall be terminated not earlier than sixty (60) calendar days from receipt of the notice, and such notice shall state with specificity the grounds for termination. If the breach is curable, the Party in breach will have the right to cure such breach prior to the date stated for termination, and, should the breach be cured and written notice of such cure served on the aggrieved Party prior to the date stated for termination, such notice shall vacate the notice to terminate.

(b) *Termination for Convenience.* Either Party may terminate the Agreement for any other reason by giving written notice to the other Party that the Agreement will terminate not less than ninety (90) days from receipt of the notice. The notice will specify the basis for termination. ISE will pay NASD the amount due for authorized work and expenses incurred in completion of such authorized work as of the effective date of termination.

16. *General obligations.* The Parties agree to perform all acts and execute all supplementary instruments or documents that may be reasonably necessary or desirable to carry out the provisions of this Agreement.

17. *Liaison and Notices.* All questions regarding the implementation of this Agreement shall be directed to the persons identified in subsections (a) and (b), as applicable, below. All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon (i) actual receipt by the notified Party or (ii) constructive receipt (as of the date marked on the return receipt) if sent by certified or registered mail, return receipt requested, to the following addresses:

(a) *If to NASD:*
NASD, 9509 Key West Avenue, Rockville, Maryland 20850, *Attn:* Jim Price.
With, if a notice of breach or default, a required copy to:
National Association of Securities Dealers, Inc., 1735 K Street, NW., Washington, DC 20006, *Attn:* Office of General Counsel—Contracts Group.

(b) *If to ISE:*
International Securities Exchange, Inc., 60 Broad Street, 26th Floor, New York, NY 10004, *Attn:* Legal Department.
With, if a notice of breach or default, a required copy to:
Same address as above.

18. *Regulatory responsibility.* Pursuant to section 17(d)(1)(A) of the Act, and Rule 17d–2 thereunder, NASD and ISE jointly request the SEC, upon its approval of this Agreement, to relieve ISE of any and all responsibilities with respect to the matters performed by NASD pursuant to this Agreement for purposes of sections 17(d) and 19(g) of the Act.

19. *Governing Law.* This Agreement shall be deemed to have been made in the State of New York and shall be construed and enforced in accordance with the law of the state of New York, without reference to principles of conflicts of laws thereof. Each of NASD and ISE hereby consents to submit to the jurisdiction of the courts by or for the State of New York in connection with any action or proceeding relating to this Agreement.

20. *Survival of Provisions.* Provisions intended by their terms or context to survive and continue notwithstanding delivery of the Services by NASD, the payment of the price by ISE, and any expiration of this Agreement shall survive and continue, including but not limited to, the items referred to in Sections 6, 8, and 9.

III. Solicitation of Comments

In order to assist the Commission in determining whether to approve this plan and to relieve the ISE of those responsibilities designated to the NASD, interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission 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 plan that are filed with the Commission, and all written communications relating to the proposed plan between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of ISE. All submissions should refer to File No. S7–966 and should be submitted by June 13, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–12730 Filed 5–20–03; 8:45 am]

BILLING CODE 8010–01–M

[13] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47858; File No. SR–Amex–2003–40]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC to Extend the Suspension of Transaction Charges for Certain Exchange-Traded Funds

May 14, 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 May 1, 2003, the American Stock Exchange LLC (''Amex'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to extend until May 31, 2003 the suspension of Exchange transaction charges for specialist, Registered Trader, and broker-dealer orders for the iShares Lehman 1–3 year Treasury Bond Fund; iShares Lehman 7–10 year Treasury Bond Fund; Treasury 10 FITR ETF; Treasury 5 FITR ETF; Treasury 2 FITR ETF; and Treasury 1 FITR ETF. Proposed new language is *italicized*; proposed deletions are in [brackets].

* * * * *

AMEX Equity Fee Schedule

I. Transaction Charges
No change.

II. Regulatory Fee
No Change.
Notes:
1. and 2. No change.
3. Customer transaction charges for the following Portfolio Depositary Receipts, Index Fund Shares, and Trust Issued Receipts have been suspended:

DIA—DIAMONDS®
QQQ—Nasdaq-100® Index Tracking Stock
SPY—SPDR®
IVV—iShares S&P 500
MDY—MidCap SPDRs
XLY—Select Sector SPDR-Consumer Discretionary
XLP-Select Sector SPDR-Consumer Staples
XLE-Select Sector SPDR-Energy
BHH-B2B Internet HOLDRs™
BBH-Biotech HOLDRs
BDH-Broadband HOLDRs
EKH-Europe 2001 HOLDRs
IAH-Internet Architecture HOLDRs
HHH-Internet HOLDRs
IIH-Internet Infrastructure HOLDRs
MKH-Market 2000+ HOLDRs
OIH-Oil Service HOLDRs

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

XLF-Select Sector SPDR-Financial
XLV-Select Sector SPDR-Health Care
XLI-Select Sector SPDR-Industrial
XLB-Select Sector SPDR-Materials
XLK-Select Sector SPDR-Technology
XLU-Select Sector SPDR-Utilities
PPH-Pharmaceutical HOLDRs
RKH-Regional Bank HOLDRs
RTH-Retail HOLDRs
SMH-Semiconductor HOLDRs
SWH-Software HOLDRs
TTH-Telecom HOLDRs
UTH-Utilities HOLDRs
WMH-Wireless HOLDRs
SHY-iShares Lehman 1–3 Year Treasury Bond Fund
IEF-iShares Lehman 7–10 Year Treasury Bond Fund
TLT-iShares Lehman 20+ Year Treasury Bond Fund
LQD-iShares GS $ InvesTop Corporate Bond Fund
TFT—Treasury 1 FITR ETF
TOU—Treasury 2 FITR ETF
TFI—Treasury 5 FITR ETF
TTE—Treasury 10 FITR ETF

Customer transaction charges for the iShares S&P 100 Index Fund are $.0015 per share ($.15 per 100 shares), capped at $100 per trade.

Until [April 30] May 31, 2003, transaction charges also have been suspended in SHY, IEF, TFT, TOU, TFI and TTE for specialist, Registered Trader and broker dealer orders.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. 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 Exchange is extending until May 31, 2003 the suspension of transaction charges in iShares Lehman 1–3 year Treasury Bond Fund (Symbol: SHY); iShares Lehman 7–10 year Treasury Bond Fund (Symbol: IEF); Treasury 10 FITR ETF (Symbol: TTE); Treasury 5 FITR ETF (TFI); Treasury 2 FITR ETF (TOU); and Treasury 1 FITR ETF (TFT) for specialist, Registered Trader and broker-dealer orders. The Exchange previously filed a suspension in such charges until November 30, 2002,[3] December 13, 2002,[4] January 31, 2003,[5] February 28, 2003,[6] March 31, 2003,[7] and April 30, 2003.[8]

The Exchange believes a suspension of fees for these securities is appropriate to enhance the competitiveness of executions in these securities on the Amex. The Exchange will reassess the fee suspension as appropriate, and will file any modification to the fee suspension with the Commission pursuant to section 19(b)(3)(A) of the 1934 Act.

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)[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)[12] thereunder because the proposal: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such short time as designated by the Commission. At any time within 60 days of the filing of such 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 purposes of the Act.

The Amex has requested that the Commission waive the five-day pre-filing notice and the 30-day operative delay. The Commission believes that waiving the five-day pre-filing notice and the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that fee suspensions for the exchange-traded funds that are the subject of this filing have been previously filed with the Commission.[13] Further, extension of the fee suspension for specialist, Registered Trader, and broker-dealer orders will permit the fee suspensions to continue uninterrupted. For these reasons, the Commission

[3] *See* Securities Exchange Act Release No. 46765 (November 1, 2002), 67 FR 68893 (November 13, 2002) (SR–Amex–2002–91).

[4] *See* Securities Exchange Act Release No. 46996 (December 13, 2002), 67 FR 78264 (December 23, 2002) (SR–Amex–2002–98).

[5] *See* Securities Exchange Act Release No. 47141 (January 8, 2003), 68 FR 2090 (January 15, 2003) (SR–Amex–2002–115).

[6] *See* Securities Exchange Act Release No. 47361 (February 13, 2003), 68 FR 8534 (February 21, 2003) (SR–Amex–2003–04).

[7] *See* Securities Exchange Act Release No. 47455 (March 6, 2003), 68 FR 12111 (March 13, 2003) (SR–Amex–2003–15).

[8] *See* Securities Exchange Act Release No. 47668 (April 11, 2003), 68 FR 19241 (April 18, 2003) (SR–Amex–2003–22).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] *See supra* notes 3–8.

designates the proposal to be effective and operative upon filing with the Commission.[14]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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–Amex–2003–40 and should be submitted by June 11, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–12690 Filed 5–20–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47862; File No. SR–Amex–2003–38]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to the Withdrawal of Approval for Securities Underlying Options Traded on the Exchange

May 14, 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 May 1, 2003, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The proposed rule change has been filed by the Amex as a ''non-controversial'' rule change under Rule 19b–4(f)(6) under the Act.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rule 916, which governs the withdrawal of approval for securities underlying options traded on the Exchange. Below is the text of the proposed rule change. Proposed new language is in italics.

* * * * *

Rule 916. Withdrawal of Approval of Underlying Securities

No Change

Commentary.

01 The Board of Governors has established guidelines to be considered by the Exchange in determining whether an underlying security previously approved for Exchange option transactions no longer meets its requirements for the continuance of such approval. Absent exceptional circumstances, with respect to items 1, 2, or 3 listed below, an underlying security will not be deemed to meet the Exchange's requirements for continued approval whenever any of the following occur:

1. There are fewer than 6,300,000 shares of the underlying security held by persons other than those who are required to report their security holdings under section 16(a) of the Securities Exchange Act of 1934.

2. There are fewer than 1,600 holders of the underlying security.

3. The trading volume (in all markets in which the underlying security is traded) was less than 1,800,000 shares in the preceding twelve months.

4. Subject to Commentary .02 below, the market price per share of the underlying security closed below $3 on the previous trading day as measured by the highest closing price reported in the primary market (as that term is defined in Rule 900(26)) in which the underlying security traded.

5. The issuer has failed to make timely reports as required by applicable requirements of the Securities Exchange Act of 1934, and such failure has not been corrected within 30 days after the date the report was due to be filed.

6. The issue, in the case of an underlying security that is principally traded on a national securities exchange, is delisted from trading on that exchange and neither meets NMS criteria nor is traded through the facilities of a national securities association, or the issue, in the case of an underlying security that is principally traded through the facilities of a national securities association, is no longer designated as an NMS security.

7. If an underlying security is approved for options listing and trading under the provisions of Commentary .05 of Rule 915, the trading volume and price history of the Original Security (as therein defined) prior to but not after the commencement of trading in the Restructured Security (as therein defined), including ''when issued'' trading, may be taken into account in determining whether the trading volume and market price requirements of paragraphs 3. and 4. of the Commentary .01 are satisfied, provided however, that in the case of a Restructured Security approved for options listing and trading under paragraph (d) of Commentary .05 under Rule 915, such trading volume requirements must be satisfied based on the trading volume history of the Restructured Security.

.02–.09 No Change

.10 In determining whether any of the events specified in Commentary .01(1) or (2) of this Rule have occurred, the Exchange will monitor on a daily basis news sources for information of corporate actions, including stock splits, mergers and acquisitions, distribution of special cash dividends, recapitalizations, and stock buy-backs. If a corporate action indicates that an underlying security no longer meets the Exchange's requirements for continued approval under Commentary .01 (1) or (2) of this Rule, the Exchange will not open additional series of option contracts of the class covering the underlying security. If, however, information of a corporate action does not indicate that any of the events specified in Commentary .01(1) or (2) have occurred, the Exchange shall consider the events specified in Commentary .01(1) and (2) to have been satisfied.

* * * * *

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[14] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 916 sets forth the guidelines to be considered by the Exchange in determining whether an underlying security previously approved for Exchange option transactions no longer meets its requirements for the continuance of such approval. Specifically, Commentary .01(1) to Exchange Rule 916 provides that, absent exceptional circumstances, the Exchange may not list additional series on an option class if there are fewer than 6,300,000 shares of the underlying security held by persons other than those who are required to report their security holdings under section 16(a) of Act [4] (the ''float'' requirement). Commentary .01(2) to Exchange Rule 916 provides that, absent exceptional circumstances, the Exchange may not list additional series on an option class if there are fewer than 1,600 holders of the underlying security (the ''holders'' requirement). The Exchange is now proposing to add Commentary .10 to Exchange Rule 916 to clarify the manner in which the Exchange determines whether the ''float'' and ''holders'' requirements found in Commentary .01 to Exchange Rule 916 are met.[5]

The Exchange proposes to expressly state that in determining whether any of the events specified in Commentary .01(1) or (2) to Exchange Rule 916 have occurred, the Exchange would monitor on a daily basis news sources for information of corporate actions, including stock splits, mergers and acquisitions, distribution of special cash dividends, recapitalizations, and stock buy backs. If a corporate action indicates that an underlying security no longer meets the Exchange's requirements for continued approval under Commentary .01(1) or (2) to Exchange Rule 916, the Exchange would not open additional series of option contracts of the class covering the underlying security. If, however, information of a corporate action does not indicate that any of the events specified in Commentary .01(1) or (2) to Exchange Rule 916 have occurred, the Exchange shall consider the events specified in Commentary .01(1) and (2) to have been satisfied.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act [7] in general, and furthers the objectives of Section 6(b)(5) of the Act [8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because, the foregoing proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms, does not become operative until 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change,[9] it has become effective pursuant to section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11]

The Amex has requested that the Commission waive the usual 30-day pre-operative waiting period. The Commission notes that this proposal is the same in all material respects to another proposal submitted by the Chicago Board Options Exchange, Inc. (''CBOE'') and recently approved by the Commission.[12] As a result, the Commission believes that it is consistent with the protection of investors and the public interest to accelerate the operative date because the proposal raises no new regulatory issues. Therefore, the Commission designates that the proposal become operative immediately.[13]

At any time within 60 days of the filing of this 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 purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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

[4] 15 U.S.C. 78p(a).

[5] Proposed Commentary .10 to Exchange Rule 916 will clarify how the Exchange will determine whether the float of an underlying security is less than 6.3 million shares or the number of holders of the underlying security is fewer than 1,600.

[6] The Exchange represents that existing Commentary .03 to Exchange Rule 916 would continue to apply when the Exchange considers whether any of the events specified in Commentary .01 have occurred with respect to an underlying security. Specifically, Commentary .03 to Exchange Rule 916 provides that the Exchange shall ordinarily rely on information made publicly available by the issuer and/or markets in which such security is traded.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *See* e-mail from Jeffrey P. Burns, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated April 15, 2003.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] *See* Securities Exchange Act Release No. 47400 (February 25, 2003), 68 FR 10286 (March 4, 2003).

[13] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2003–38 and should be submitted by June 11, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–12735 Filed 5–20–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47826; File No. SR–DTC–2002–19]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change to Establish an Inventory Management System

May 9, 2003

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 19, 2002, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC is seeking to establish an Inventory Management System (''IMS'') which will provide new central control capabilities for the settlement process including new capabilities for transaction authorization and new controls for the management of pending deliveries.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The industry's prolonged discussions of the development of a new matching model that promotes straight through processing (''STP'') for institutional transactions identified a series of deficiencies in the processing systems for settling those transactions.[3] Industry members, particularly members of the Securities Industry Association's Institutional Trade Processing Committee, pressed DTC to develop a series of capabilities to permit participants to centrally manage their own settlements as a way of furthering STP in the settlement process itself. A working group under the Settlement Advisory Board of The Depository Trust & Clearing Corporation (''DTCC'') assisted in crafting the framework for IMS.

Today, participants control the processing of their institutional deliveries received from a matching utility (such as Omgeo's TradeSuite system) through the Authorization and Exception system (''ANE''). ANE will not send a delivery to the processing system without an affirmative authorization from the delivering participant. This affirmative authorization is given either on an item-by-item basis or through a ''global'' authorization. A participant can submit exceptions to explicitly withhold a delivery from processing. Conversely, deliveries from the National Securities Clearing Corporation's (''NSCC's'') Continuous Net Settlement system (''CNS'') are automatically processed unless the participant instructs NSCC otherwise via an exemption. Other deliveries (*e.g.*, Night Deliver Orders [''NDOs'']) along with authorized institutional deliveries and CNS deliveries are processed by DTC at predefined times. All of these transactions may pend (''recycle'') in the event of a position deficiency or a problem with system controls. Recycles are processed based on one of two recycle options; a ''First In First Out'' process or a DTC preestablished recycle queue.

Participants generally have sought greater control over the processing of their deliveries than these procedures permit. Therefore, participants have built internal inventory management systems or adopted internal manual procedures that exempt deliveries from automatic processing so that the participants can control the sequence and timing of their deliveries. This has created an STP shortfall, caused the industry to build redundant systems, and has increased the number of reclaims.

DTC is now seeking to allow a participant to choose how it wants to authorize its deliveries. The key components of IMS include:

(1) New authorization capabilities (replacing the ANE system) which participants can use to stage transactions for automated settlement;

(2) A new ''profiling'' system which will allow participants greater control over the timing and order of their deliveries by transaction type and asset class via predefined profiles to eliminate today's frequent direct intervention in the settlement process that inhibits STP;

(3) Capabilities permitting the linkage of transactions so particular receive transactions are associated with particular deliveries;[4] and

(4) Controls permitting the retention of failed deliveries for the following settlement day eliminating participants' need to reinput these instructions.

As a result of industry feedback, DTC has designed IMS to permit authorization and control of different transaction types (*e.g.*, NDOs, *etc.*) within each asset class (*e.g.*, equities) and to permit increased authorization options. The creation of IMS also makes possible a warehousing[5] facility for

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[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] The present U.S. system has evolved over time in different ways for different instruments, participants, and marketplaces. While the current system has met the needs of the industry well, the result is an intricate web of processing steps that are not standardized and are quite complex and inflexible. Many participants manage their processing with late-cycle interventions such as (a) withholding or ''exempting'' trades from more automatic processes, subsequently intervening in the system to reintroduce the transaction when they are ready to process it and (b) reversing or ''reclaiming'' problem transactions before or after settlement has occurred. These practices late in the settlement cycle disrupt automated processing and contribute to the incidence of fails, which creates costs and risks for participants and for the system as a whole.

[4] Such a linkage would permit customers to associate securities they expected to receive with specific securities they expected to deliver so that they no longer need to exempt a delivery until they receive providing the securities for it has been processed.

[5] DTC's current front-end edits do not permit a delivery to have a future settlement date. The current NDO function only permits deliveries to

future deliveries through the NDO function and the reintroduction of dropped deliveries.[6] At the participant's option, the system could require reauthorization of reintroduced ''drops'' before they are resubmitted for processing on the following day.

If approved by the Commission, IMS will be implemented in two phases. Three initiatives, (1) the replacement of ANE, (2) warehousing, and (3) the reintroduction of dropped deliveries, will be available in Phase I. Phase I is scheduled to begin in July 2003. Phase II, scheduled to be implemented in December 2003, will create an optional customized delivery and recycle profile.[7]

A participant can choose to authorize its deliveries either actively or passively. In the active mode, deliveries will not be processed unless an authorization is sent. Authorizations and exemptions can be on a trade-for-trade basis or a global basis. Global authorization or exemption capabilities will also be available via the Participant Browser System display screens. The new passive mode authorization option will immediately authorize a delivery when it is received and process it on its settlement day unless the participant exempts it.

Recognizing the need for flexibility and options, a participant will be able to create authorization profiles for the following asset classes: equity, municipal debt, corporate debt, and money market instruments. Within each asset class, a participant can choose which authorization mode it would like applied as its default for the different transaction types. [8] For example, for the asset class equities, a participant could choose to use active mode authorization for matched institutional deliveries and passive mode authorization for CNS deliveries.

Participants would not be required to make systemic changes and can continue to process their deliveries as they do today. All IMS features will be optional, and participants will be able to migrate to any or all features they deem valuable. As a result of this new system, participants will be able to centrally manage their own settlements and achieve higher levels of straight through processing.

DTC believes that the proposed rule change is consistent with the requirements of section 17A of the Act [9] and the rules and regulations thereunder applicable to DTC because it will permit the accurate clearance and settlement of securities by allowing participants to centrally manage their own settlements and control the order and timing of their deliveries earlier in the settlement cycle.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, in the public interest, and for the protection of investors.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

DTC has discussed this rule change proposal in its current form with various DTC participants and industry groups, a number of whom have worked closely in developing the proposed IMS system.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–DTC–2002–19. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC.

All submissions should refer to File No. SR–DTC–2002–19 and should be submitted by June 11, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–12731 Filed 5–20–03; 8:45 am]

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have a future settlement date of the next business day or earlier. The IMS warehouse feature will store deliveries on its database and direct these deliveries into the processing system as NDOs that are due to settle on the appropriate settlement day.

[6] ''Dropped'' deliveries are deliveries from the previous day that were incomplete. Under this new option, ''drops'' would be automatically retained and reintroduced into the system for processing on the following day.

[7] DTC will file another proposed rule change for Commission approval before implementing Phase II.

[8] In Phase I, authorization modes can be assigned for the following transaction types:

(1) Institutional deliveries from a matching utility;

(2) CNS;

(3) NDOs;

(4) Reintroduced drops; and

(5) ACATS auto deliveries.

[9] 15 U.S.C. 78q–1.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47875; File No. SR–DTC–2003–08]

Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing of a Proposed Rule Change Relating to Rule 4A, Pledge of Property to the Corporation and Its Lenders

May 15, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 6, 2003, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been

[1] 15 U.S.C. 78s(b)(1).

prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify DTC's Rule 4A, Section 1, and would make a technical correction to the definition of the term pledge in DTC's Rule 1.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Each DTC participant pays or receives the net debit or net credit balance in its DTC money settlement account at the end of each day. DTC's principal risk is the possible failure of one or more participants to settle their net debit obligations. To assure that it is able to complete its settlement obligations each day, DTC maintains liquidity resources, including a committed line of credit in the maximum amount of $1.75 billion with a consortium of banks that is part of a combined syndicated facility with National Securities Clearing Corporation (''End of Day Facility'').

The End of Day Facility matures annually. As part of the negotiations to extend the facility for the year beginning May 27, 2003, DTC's lenders have requested that Section 1 of DTC's Rule 4A, ''Pledge of Property to the Corporation and its Lenders,'' be clarified. This provision currently provides that for the purpose of securing loans to DTC, DTC may pledge and repledge and grant its lenders a security interest in (i) cash deposits in the participants fund and all securities, repurchase agreements, or deposits in which such cash is invested, (ii) net additions, including any security entitlements of participants in net additions, and (iii) preferred stock. This section provides that any such loan to DTC may be on such terms as DTC, in its discretion, may deem necessary or advisable and may be in amounts greater and extend for time periods longer than the obligations of any participant in DTC. It further provides that no lender shall be obligated to return any pledged collateral prior to the full repayment of any loan secured thereby.

DTC is proposing to add language to Section 1 of Rule 4A to make clear what is implicit in the current rule that while there remain any outstanding obligations under any such loan, no participant may assert a claim against the lender for the return of any collateral pledged by DTC as security therefore.[3] Subject to the foregoing and the terms of any such loan, the obligation of DTC to return any items of pledged collateral to its participants or to permit substitutions and withdrawals thereof remains unaffected.

In addition, the proposed rule change would make a technical correction to the definition of the term ''pledge'' in Rule 1 necessitated by the recent revisions to Article 9 of the New York Uniform Commercial Code (''NYUCC''). Currently, the definition of ''pledge'' refers to section 9–115 of the NYUCC. As proposed, the references to that specific section would be deleted so the definition would refer to the NYUCC in general.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable to DTC because it will assist DTC in maintaining a committed end-of-day line of credit to facilitate completion of daily money settlement and as such will assist DTC to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no adverse impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments from DTC participants or others have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve the proposed rule change or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–DTC–2003–08. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the File No. SR–DTC–2003–08 and should be submitted by June 11, 2003.

[2] The Commission has modified parts of these statements.

[3] The proposed language would state, ''No Participant shall have any right, claim or action against any secured Lender (or any collateral agent of such secured Lender) for the return, or otherwise in respect, of any such collateral Pledged by the Corporation to such secured Lender (or its collateral agent), so long as any loans made by such Lender to the Corporation or other obligations, secured by such collateral, are unpaid and outstanding.''

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–12732 Filed 5–20–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47857; File No. SR–NASD–2003–77]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. To Amend the Fee Schedule for the Nasdaq Application of the Primex Auction System®

May 14, 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 April 30, 2003, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On May 2, 2003, Nasdaq filed a letter to correct a typographical error in the proposal.[3] Nasdaq has designated this proposal as one constituting a fee filing under section 19(b)(3)(A) of the Act,[4] which renders the rule effective upon the Commission's receipt of this filing. Nasdaq began assessing fees pursuant to the revised fee schedule beginning on May 1, 2003. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq proposes to amend NASD Rule 7010(r) to modify the fee schedule for the Nasdaq Application of the Primex Auction System (''Primex''). Nasdaq will implement the proposed rule change on May 1, 2003. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

Rule 7010(r). Nasdaq Application of the Primex Auction System

The following charges shall apply to the use of the Nasdaq Application of the Primex Auction System:

(1) Transaction Charges:

Execution Services—for all participants:

- Order entry—No fee.
- Auction Response (per share, per execution).*—$[.005] *.003*

Matching Rights—Primex Auction Market Makers (PAMMs) only:

- 50 Percent Match—No fee.
- Two-Cent Match (per share, per retained order—$2.50 Maximum).** —$ .0025

Revenue Sharing—PAMMs only.

- Each order executed:***—⅓ of transaction fee.

(2) Monthly Access fees [No change.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The amendments modify NASD Rule 7010(r), which establishes the fee schedule for Primex. Specifically, the amendments reduce the auction response fee from $.005 to $.003 per execution, per share.

While the fee schedule for Primex was filed initially in December 2001, the prices for the fee schedule were established in 2000.[5] Nasdaq represents that since that time transaction prices in the overall market have decreased. As a result, Nasdaq believes that the Primex fee schedule is no longer competitive. This proposal responds to the developments in the market and reduces the auction response fee.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[6] in general, and with Section 15A(b)(5) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable fees among members. Nasdaq believes the fee reduction recognizes the changes in pricing that have occurred in the market and are designed to make the fees for Primex competitive with other trading venues. Nasdaq represents that these fees will be charged consistently to all members that choose to use Primex.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Eleni Constantine, Associate General Counsel, Nasdaq, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated May 2, 2003 (''Clarification Letter''). In the Clarification Letter, Nasdaq corrected a typographical error in a footnote that is not part of the text being amended regarding the revenue sharing payment schedule. Nasdaq stated that the revenue sharing amounts are paid on a monthly basis, not on a quarterly basis, as previously published in the **Federal Register**. *See* Securities Exchange Act Release No. 45285A (March 5, 2002), 67 FR 10962 (March 11, 2002). Thus, footnote * * * should read: ''Paid to a PAMM when it enters an order that interacts with crowd interest in the system. Revenue sharing applies only to orders in those securities in which the firm is registered as a PAMM. The revenue sharing amounts will be paid on a monthly basis.'' Nasdaq represents that the footnote reads this way in its Manual.

[4] 15 U.S.C. 78s(b)(3)(A).

* This fee applies to both Indications and ''real-time'' Responses. When two orders match directly, a fee is charged to the party that entered the second order.

** This fee is charged in the event a PAMM attaches its matching right to an order, and the crowd offers two cents or less price improvement to that order.

*** Paid to a PAMM when it enters an order that interacts with crowd interest in the system. Revenue sharing applies only to orders in those securities in which the firm is registered as a PAMM. The revenue sharing amounts will be paid on a monthly basis.

[5] *See* Securities Exchange Act Release No. 45285 (January 15, 2002), 67 FR 3521 (January 24, 2002). In the filing establishing the original fee schedule for Primex, Nasdaq indicated it would not charge any fees during the initial few months Primex was operating, and that it would notify members through a Head Trader Alert when it would begin assessing fees. On July 31, 2002, Nasdaq filed a proposed rule change revising the original fee schedule for Primex. *See* Securities Exchange Act Release No. 46361 (August 15, 2002), 67 FR 54246 (August 21, 2002). Nasdaq began assessing fees on August 1, 2002 according to the revised fee schedule; fees were never charged under the original fee schedule.

[6] 15 U.S.C. 78*o*–3.

[7] 15 U.S.C. 78*o*–3(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act [8] and subparagraph (f)(2) of Rule 19b–4 thereunder [9] in that it establishes the fee schedule for the use of a Nasdaq system.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2003–77 should be submitted by June 11, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–12689 Filed 5–20–03; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47873; File No. SR–NSCC–2002–15]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Modifying NSCC Rule 15

May 15, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 20, 2002, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') and on December 24, 2002, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to modify NSCC Rule 15 to specify what additional information participants and applicants must file with NSCC regarding their financial responsibility and operational capability.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule filing is to modify Section 2 of NSCC Rule 15, ''Financial Responsibility and Operational Capability.'' The proposed rule filing specifically: (1) Codifies the current practice that applicable members provide copies to NSCC of consolidated reports of condition and income (*i.e.*, ''call reports''), (2) require broker-dealer members to provide copies to NSCC of their most recent audited financial statements within sixty days after their fiscal year end and non-broker-dealer members to provide copies to NSCC of their most recent audited financial statements within ninety days after their fiscal year end, (3) require members to file copies with NSCC of all Rule 17a–11 letters filed with the Commission, and (4) require members to file with NSCC copies of such filings as determined by NSCC from time to time which members are required to file pursuant to the Sarbanes-Oxley Act of 2002 and any amendments thereunder.[3]

Rule 15, Section 2 currently permits NSCC to examine the financial responsibility and operational capability of members and applicants and to require them to provide certain information to NSCC. The proposed rule change modifies Rule 15 to more specifically delineate other information that participants must file with NSCC.

The proposed rule change is consistent with Section 17A(b)(3)(F) of the Act [4] and the rules and regulations thereunder because it will assure the safeguarding of securities and funds in NSCC's custody or control.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act [5] and Rule 19b–4(f)(1) [6] thereunder because the proposed rule change constitutes an interpretation with respect to the administration and enforcement of an

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] Pub. L. 107–204, 116 Stat. 745 (2002).

[4] 15 U.S.C. 78q(b)(3)(F).

[5] 15 U.S.C. 78s(b)(3)(A)(i).

[6] 17 CFR 240.19b–4(f)(1).

existing NSCC rule. At any time within sixty days of the filing of such 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 purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–NSCC–2002–15. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–2002–15 and should be submitted by June 11, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–12733 Filed 5–20–03; 8:45 am]

BILLING CODE 8010–01–P

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47874; File No. SR–NSCC–2003–08]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Rule 4, Section 12, Clearing Fund and Pledges of Deposits

May 15, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 6, 2003, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify NSCC's Rule 4, Section 12, to make clear NSCC's ability to pledge clearing fund deposits and NSCC's members' rights to pledged deposits.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Each NSCC member pays or receives the net debit or net credit balance in its NSCC money settlement account at the end of each day. NSCC's principal risk is the possible failure of one or more members to settle their net debit obligations. To assure that it is able to complete its settlement obligations each day, NSCC maintains liquidity resources, including a committed line of credit in the maximum amount of $1.9 billion with a consortium of banks that is part of a combined syndicated facility with The Depository Trust Company (''End of Day Facility'').

The End of Day Facility matures annually. As part of the negotiations to extend the facility for the year beginning May 27, 2003, NSCC's lenders have requested that Section 12 of NSCC's Rule 4, ''Clearing Fund,'' be clarified. Section 12 currently provides that for the purpose of securing loans to NSCC, NSCC may pledge and repledge and grant its lenders a security interest in (i) cash deposits in the clearing fund, (ii) all securities, repurchase agreements, or deposits in which such cash is invested, and (iii) qualified bonds pledged by a member or letters of credit issued on a member's behalf for NSCC's benefit to secure the member's open account indebtedness to NSCC. This section provides that any such loan to NSCC may be on such terms as NSCC, in its discretion, may deem necessary or advisable and may be in amounts greater and extend for time periods longer than the obligations of any member in NSCC. Subject to the terms and conditions of such loan, NSCC remains obligated to its members to return any items of pledged collateral or permit substitutions and withdrawals thereof as provided in its rules.

It was always the intent and understanding of NSCC and its members that by virtue of Rule 4, Section 12, members had authorized NSCC to pledge to its lenders a member's actual deposits.[3] In order to accommodate NSCC's lenders, NSCC is proposing to modify the language of the rule itself to make clear NSCC's right to pledge its members' actual deposits to one or more lenders for the purposes enumerated in the rule. In addition, NSCC is also proposing to add language to the rule to make clear what is implicit in the current rule that while there remain any outstanding obligations under any such loan, no member may assert a claim against the lender for the return of any collateral pledged by NSCC as security therefore.[4] Subject to the foregoing and

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

[3] Securities Exchange Act Release No. 28784 (January 16, 1991), 56 FR 2575 (January 23, 1991) [File No. SR–NSCC–90–22].

[4] The proposed language would state, ''No Member, Insurance Carrier Member or Fund Member shall have any right, claim or action against any secured Lender (or any collateral agent of such secured Lender) for the return, or otherwise in respect, of any such collateral Pledged by the Corporation to such secured Lender (or its collateral agent), so long as any loans made by such Lender

Continued

the terms of any such loan, the obligation of NSCC to return any items of pledged collateral to its members or to permit substitutions and withdrawals thereof remains unaffected.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable to NSCC because it will assist NSCC in maintaining a committed end-of-day line of credit to facilitate completion of daily money settlement and as such will assist NSCC to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC perceives no adverse impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments from NSCC members or others have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve the proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–NSCC–2003–08. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the File No. SR–NSCC–2003–08 and should be submitted by June 11, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–12734 Filed 5–20–03; 8:45 am]

BILLING CODE 8010–01–P

to the Corporation or other obligations, secured by such collateral, are unpaid and outstanding.''

[5] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3500]

State of Alabama; (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective May 13, 2003, the above numbered declaration is hereby amended to include Barbour, Bullock, Chambers, Cherokee, Clay, Cleburne, Colbert, Coosa, Lauderdale, Lawrence, Lee, Limestone, Macon, Randolph, Russell and Tallapoosa Counties in the State of Alabama as disaster areas due to damages caused by severe storms, tornadoes, and flooding occurring on May 5, 2003 and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Dale, Elmore, Franklin, Henry, Montgomery and Pike in the State of Alabama; Carroll, Chatahoochee, Clay, Floyd, Haralson, Harris, Heard, Muscogee, Polk, Quitman, Stewart and Troup Counties in the State of Georgia; Tishomingo County in the State of Mississippi; and Giles, Hardin, Lawrence and Wayne Counties in the State of Tennessee may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary county have been previously declared.

The economic injury number assigned to Mississippi is 9V3400.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is July 11, 2003, and for economic injury the deadline is February 12, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 14, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–12701 Filed 5–20–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3496]

State of Kansas; (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective May 14, 2003, the above numbered declaration is hereby amended to include Anderson, Douglas, Osage, and Woodson Counties in the State of Kansas as disaster areas due to damages caused by severe storms, tornadoes and flooding occurring on May 4, 2003 and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Coffey, Greenwood, Lyon, Shawnee and Wabaunsee in the State of Kansas may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary county have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is July 7, 2003, and for economic injury the deadline is February 6, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 15, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–12751 Filed 5–20–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3492]

State of Mississippi; (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective May 14, 2003, the above numbered declaration is hereby amended to reestablish the incident period for this disaster as beginning on April 6 and continuing through April 25, 2003.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is June 23, 2003, and for economic injury the deadline is January 26, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 15, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–12752 Filed 5–20–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3502]

State of Texas

Hidalgo County and the contiguous counties of Brooks, Cameron, Kenedy, Starr and Willacy in the State of Texas constitute a disaster area due to a tornado that occurred on April 29, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 14, 2003, and for economic injury until the close of business on February 16, 2004, at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Boulevard, Suite 102, Forth Worth, TX 76155.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.625
Homeowners without credit available elsewhere	2.812
Businesses with credit available elsewhere	5.906
Businesses and non-profit organizations without credit available elsewhere	2.953
Others (including non-profit organizations) with credit available elsewhere	5.500
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	2.953

The number assigned to this disaster for physical damage is 350212 and for economic injury the number is 9V3300.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 14, 2003.

Hector V. Barreto,

Administrator.

[FR Doc. 03–12700 Filed 5–20–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4372]

Culturally Significant Objects Imported for Exhibition Determinations: ''Anne Frank the Writer—An Unfinished Story''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Anne Frank the Writer—An Unfinished Story,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the United States Holocaust Memorial Museum, from on or about June 12, 2003 until on or about September 12, 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 the exhibit objects, contact Orde F. Kittrie, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: (202) 401–4779). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: May 19, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–12895 Filed 5–20–03; 8:45 am]

BILLING CODE 4710–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Reinstatement of Treatment of Government Procurement of Products of the Dominican Republic

AGENCY: Office of the United States Trade Representative.

ACTION: Reinstatement of treatment of government procurement of products of the Dominican Republic.

Under the authority delegated to me by the President in section 1–201 of Executive Order 12260 of December 31, 1980, I hereby direct that products of the Dominican Republic shall be treated as eligible products for purposes of section 1–101 of the Executive Order. Such treatment shall not apply to products originating in the Dominican Republic that are excluded from duty free treatment under 19 U.S.C. 2703(b). Decisions on the continued application of this treatment will be based on ongoing evaluation of the Dominican Republic's efforts to improve domestic procurement practices, its support for relevant international initiatives, such as those in the World Trade Organization (WTO) Working Group on Transparency in Government Procurement and the Free Trade Area of the Americas (FTAA) Negotiating Group on Government Procurement. Performance with respect to the foregoing factors will be analyzed annually in September, although changes in the application of this treatment may be made at any time. Notice of any changes in this treatment with respect to any beneficiary will be published in the **Federal Register**.

Robert B. Zoellick,

United States Trade Representative.

[FR Doc. 03–12727 Filed 5–20–03; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 14, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to

OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0022.

Form Number: IRS Form 712.

Type of Review: Revision.

Title: Life Insurance Statement.

Description: Form 712 is used to establish the value of life insurance policies for estate and gift tax purposes. The tax is based on the value of these policies. The form is completed by life insurance companies.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 60,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	18 hrs., 10 min.
Learning about the form	6 min.
Preparing the form	24 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 1,120,200 hours.

OMB Number: 1545–0190.

Form Number: IRS Form 4876–A.

Type of Review: Revision.

Title: Election to be Treated as an Interest Charge DISC.

Description: A domestic corporation and its shareholders must elect to be an interest charge domestic international sales corporation (IC–DISC). Form 4876–A is used to make the election. IRS uses the information to determine if the corporation qualifies to be an IC–DISC.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 1,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	4 hr., 4 min.
Learning about the law or the form.	53 min.
Preparing and sending the form to the IRS.	1 hr., 00 min.

Frequency of Response: Other (one-time election).

Estimated Total Reporting/Recordkeeping Burden: 6,360 hours.

OMB Number: 1545–0902.

Form Number: IRS Forms 8288 and 8288–A.

Type of Review: Revision.

Title: U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests (Form 8288); and Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests (Form 8288–A).

Description: Form 8288 is used by the withholding agent to report and transmit the withholding to IRS. Form 8288–A is used to validate the withholding and to return a copy to the transferor for his/her use in filing a tax return.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/Recordkeepers: 10,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 8288	Form 8288–A
Recordkeeping	5 hr., 15 min.	2 hr., 52 min.
Learning about the law or the form	5 hr., 8 min.	30 min.
Preparing and sending the form to the IRS	6 hr., 38 min.	34 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 239,175 hours.

OMB Number: 1545–1683.

Form Number: IRS Form 56–A (Formerly Forms 12575 and 12575–A).

Type of Review: Extension.

Title: Notice Concerning Fiduciary Relationship—Illinois Type Land Trust.

Description: The data collected on the forms provides trustees of Illinois Land Trusts a convenient method of reporting information related to creating, changing, and closing such trusts.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 10,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	1 hr., 18 min.
Learning about the law or the form.	7 min.
Preparing the form	25 min.
Copying, assembling, and sending the form to the IRS.	20 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 22,000 hours.

OMB Number: 1545–1684.

Revenue Procedure Number: Revenue Procedure 2001–22.

Type of Review: Extension.

Title: Pre-filing Agreements Program.

Description: Revenue Procedure 2001–22 describes a program under which certain large business taxpayers may request examination and resolution of specific issues relating to tax returns. The resolution of such issues under the program will be memorialized by a type of closing agreement under Code section 7121 called a pre-filing agreement.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 225.

Estimated Burden Hours Per Respondent/Recordkeeper: 45 hours, 20 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 10,200 hours.

Clearance Officer: Glenn Kirkland, (202) 622–3428, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 03–12716 Filed 5–20–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice; correction.

SUMMARY: This document contains a correction to a notice of an Open Meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue

Committee, which was published in the **Federal Register** on April 22, 2003 (68 FR 19881).

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227, or (718) 488–3557.

Need for Correction

As published, this notice of an Open Meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of an open meeting of the taxpayer advocacy panel earned income tax credit issue committee which is the subject of FR Doc 03–9944.

1. On page 19881, column 3, under the paragraph heading ''Supplementary Information'', line 7, the language ''EST to 3 p.m. EST via a telephone'', is corrected to read ''EDT to 3 p.m. EDT via a telephone''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 03–12777 Filed 5–19–03; 8:56 am]

BILLING CODE 4830–01–P

Federal Register

Wednesday,
May 21, 2003

Part II

The President

Proclamation 7679—World Trade Week, 2003

Federal Register
Vol. 68, No. 98
Wednesday, May 21, 2003

Presidential Documents

Title 3—

The President

Proclamation 7679 of May 16, 2003

World Trade Week, 2003

By the President of the United States of America

A Proclamation

Trade expands prosperity, helps raise millions from poverty, and is an engine of economic growth within our Nation and around the world. Trade injects new energy and vitality into the global economy by fostering the exchange of ideas and innovations among people around the world. Free and open trade also helps promote peace and security. During World Trade Week, we renew our commitment to developing and implementing trade policies that create new opportunities and promote global economic growth.

My Administration is pursuing an ambitious trade agenda that is restoring America's leadership in the global trading system. We worked hard for the passage of the Trade Act of 2002, which reinstated Trade Promotion Authority after an 8-year lapse. Trade Promotion Authority re-established the ability of the United States to credibly negotiate comprehensive trade agreements by ensuring that agreements will be approved or rejected, by the Congress, but not amended. This gives other countries renewed confidence in their trade negotiations with the United States.

To extend the benefits of trade and to improve the lives of people in our Nation and around the world, my Administration continues to pursue global, regional, and bilateral trade agreements. Through the Doha Development Agenda negotiations at the World Trade Organization, the United States is seeking to strengthen the multilateral trading system, increase market access opportunities, and promote global development. Regionally, we are working to build on the success of the North American Free Trade Agreement (NAFTA) with the Free Trade Area of the Americas, which will expand free trade benefits throughout the Western Hemisphere. We are also encouraging the free flow of trade and investment in the Pacific among our partners in the Asia-Pacific Economic Cooperation forum and the Association of Southeast Asian Nations. In addition, we are negotiating a free trade agreement with five Central American democracies and will soon begin free trade agreement negotiations with the Southern African Customs Union to help spur economic growth in these two regions. Bilaterally, I recently signed a historic free trade agreement with Singapore—the first of its kind between the United States and an Asian/Pacific country, and we are finalizing a similar agreement with Chile. Free trade agreement negotiations are also underway with Australia and Morocco.

In America, trade is also critical to maintaining our economic competitiveness in the global market. It has been estimated that one in eleven American jobs—over 12 million—are supported by exports of goods and services. In the 1990s, exports accounted for about one-quarter of our economic growth. Our Nation's two major trade agreements during this time, NAFTA and the Uruguay Round, provided consumers with a greater choice of goods at better prices, while raising living standards for a typical American family of four by up to $2,000 a year.

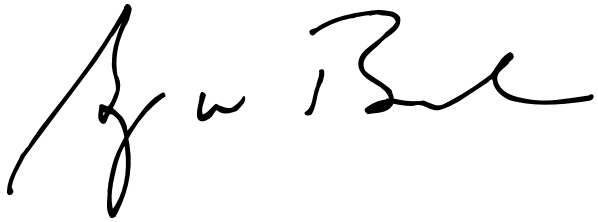
My Administration is also providing assistance to help trade-impacted workers adapt to the challenge of international competition. The Trade Adjustment Assistance program helps trade-impacted workers gain or enhance job-related skills and find new jobs. The program provides eligible workers with up

to 2 years of training, income support during training, job search assistance, and relocation allowances.

World trade allows all nations to share in the great economic, social, and political progress of our age and provides a foundation for a more peaceful and stable world. This week, we recognize the importance of free trade in promoting prosperity and freedom in the United States and around the world.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 18 through May 24, 2003, as World Trade Week. I encourage all Americans to observe this week with events, trade shows, and educational programs that celebrate the benefits of trade to our Nation and the global economy.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of May, in the year of our Lord two thousand three, and of the Independence of the United States of America the two hundred and twenty-seventh.



[FR Doc. 03–12945
Filed 5–20–03; 8:45 am]
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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MAY 21, 2003

DEFENSE DEPARTMENT

Engineers Corps

Natural disaster procedures; preparedness, response, and recovery activities; published 4-21-03

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Federal Power Act), natural gas companies (Natural Gas Act), and oil pipeline companies (Interstate Commerce Act):

Asset retirement obligations; accounting, financial reporting, and rate filing requirements; published 4-21-03

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Indoxacarb; published 5-21-03

Pyraflufen-ethyl; published 5-21-03

FEDERAL COMMUNICATIONS COMMISSION

Radio services, special:

Private land mobile services—

Low power operations in 450-470 MHz band; applications and licensing; published 4-21-03

INTERIOR DEPARTMENT

Minerals Management Service

Outer Continental Shelf; oil, gas, and sulfur operations:

American Petroleum Institute Recommended Practice 2A-WSD (21st edition); incorporation by reference; published 4-21-03

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; published 4-16-03

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Food Safety and Inspection Service

Meat and poultry inspection:

Safe and suitable binder or antimicrobial agent usage in products with standards of identity or composition; comments due by 5-29-03; published 4-29-03 [FR 03-10392]

COMMERCE DEPARTMENT

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Northeastern United States fisheries—

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Air quality implementation plans; approval and promulgation; various States:

Alabama; comments due by 5-27-03; published 4-24-03 [FR 03-10061]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

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Air quality implementation plans; approval and promulgation; various States:

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ENVIRONMENTAL PROTECTION AGENCY

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TRANSPORTATION DEPARTMENT

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Federal Aviation Administration

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Federal Aviation Administration

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 289/P.L. 108–23

Ottawa National Wildlife Refuge Complex Expansion and Detroit River International Wildlife Refuge Expansion Act (May 19, 2003; 117 Stat. 704)

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