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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–31–AD; Amendment 39–13445; AD 2004–03–01]

RIN 2120–AA64

Airworthiness Directives; Air Cruisers Company Emergency Evacuation Slide/Raft System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for a certain Air Cruisers Company Emergency Evacuation Slide/Raft System. That AD currently requires a one-time unpacking and subsequent repacking of the slide/raft systems, identified by basic part number (P/N) with dash numbers, and serial numbers (SNs) listed in the AD, and mandates repacking of all other slide/raft systems of the same design at the next required normal maintenance schedule of the slide/raft system. This AD contains the same requirements but replaces the specific slide/raft system P/N dash numbers with the word ''-series'', reduces the number of affected slide/raft systems to the SNs identified in paragraph (g) of the AD, and eliminates mandating the utilization of the applicable Folding Procedures for subsequent repacking of all slide/raft systems of the same design during the normal scheduled maintenance. This AD is prompted by recent information received that Air Cruisers Company has made modifications which have added new dash numbers to the slide/raft system basic P/N. This has affected some of the SN slide/raft systems listed in the AD. We are issuing this AD to prevent failure of the slide/raft to properly inflate, which could impede the emergency evacuation of passengers in the event of an airplane emergency.

DATES: This AD becomes effective March 11, 2004. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of March 11, 2004. The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of March 7, 2003 (68 FR 4897; January 31, 2003).

ADDRESSES: You can get the service information identified in this AD from Air Cruisers Company, Technical Publications Department, P.O. Box 180, Belmar, NJ 07719–0180; telephone: (732) 681–3527; fax: (732) 280–8212.

You may examine the AD docket, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA. You may examine the service information, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Leung Lee, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7309; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to a certain Air Cruisers Company Emergency Evacuation Slide/Raft System. We published the proposed AD in the **Federal Register** on July 18, 2003 (68 FR 42647). That action proposed the same requirements as AD 2003–03–11 but replaces the specific slide/raft system P/N dash numbers with the word ''-series'', reduces the number of affected slide/raft systems to the SNs identified in paragraph (g) of the proposed AD, and eliminates mandating the utilization of the applicable Folding Procedures for subsequent repacking of all slide/raft systems of the same design during the normal scheduled maintenance.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Requests To Update Air Cruisers Folding Procedures to Latest Revision

Two commenters state that the incorporation by reference of Folding Procedures, P–12054 and P12064, both Revision F, dated March 12, 1999, are not the latest revision. One commenter states that they have been folding the slides to the latest revision G, dated February 1, 2002. Both commenters request that the final rule reference Revision G, dated February 1, 2002, or an approved later revision.

The FAA partially agrees. We agree that the AD should reference Revision G of the Folding Procedures, dated February 1, 2002. We revised compliance paragraphs (f)(1), (f)(2), and (g) in the AD to reflect Folding Procedures, P–12054 and P12064, of Revisions G, dated February 1, 2002. We also agree that any slide/raft systems that have already been repacked to Air Cruisers Company Folding Procedures, P–12054 and P12064, of Revision F, dated March 12, 1999, or Revision G, dated February 1, 2002, are considered to be in full compliance with the AD.

We do not agree with changing the AD to reference Revision G, dated February 1, 2002 or an approved later revision. The Administrative Procedures Act requires that all service documents incorporated by reference in ADs be approved and a copy retained by the Office of the Federal Register. A reference to the ''later revision'' of a service document is a reference to a document that does not yet exist, and therefore, to a service document for which the FAA cannot yet obtain the approval for incorporation by reference. Operators may request an alternate method of compliance (AMOC) to utilize later revisions of the service document as specified in paragraph (j) of this AD.

Agreement With Proposal As Written

One commenter states that the AD creates no greater impact than the original AD and agrees with the proposal as written.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Changes to 14 CFR Part 39—Effect on the AD

On July 10, 2002, we issued a new version of 14 CFR part 39 (67 FR 47998, July 22, 2002), which governs the FAA's AD system. That regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. The material previously was included in each individual AD. Since the material is included in 14 CFR part 39, we will not include it in future AD actions.

Costs of Compliance

There are approximately 388 slide/raft systems of the affected design in the worldwide fleet. We estimate that 74 slide/raft systems installed on airplanes of U.S. registry would be affected by this AD. We also estimate that it would take approximately 5 work hours per slide/raft system to perform the repacking, and that the average labor rate is $60 per work hour. Based on these figures, the total cost of the AD to U.S. operators is estimated to be $22,200.

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''AD Docket No. 99–NE–31–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–13035 (68 FR 4897, January 31, 2003) and by adding a new airworthiness directive, Amendment 39–13445, to read as follows:

2004–03–01 Air Cruisers Company: Amendment 39–13445. Docket No. 99–NE–31–AD. Supersedes AD 2003–03–11, Amendment 39–13035.

Effective Date

(a) This AD becomes effective March 11, 2004.

Affected ADs

(b) This AD supersedes AD 2003–03–11, Amendment 39–13035.

Applicability

(c) This AD applies to all dash numbers of Air Cruisers Company Emergency Evacuation Slide/Raft System, part number (P/N) 62774. These Emergency Evacuation Slide/Raft Systems are installed on, but not limited to Boeing 777–200 and –300 series airplanes.

Unsafe Condition

(d) This AD is prompted by recent information received that Air Cruisers Company has made modifications which have added new dash numbers to the slide/raft system basic P/N. This has affected some of the SN slide/raft systems listed in AD 2003–03–11. In addition, this AD is prompted by the requirement to reduce the number of affected slide/raft systems to only the SNs identified in paragraph (g) of this AD. We are issuing this AD to prevent failure of the slide/raft to properly inflate, which could impede the emergency evacuation of passengers in the event of an airplane emergency.

Compliance

(e) If you have not already performed the actions required by this AD, you must perform the actions within the compliance times specified in this AD.

Repacking

(f) For slide/raft systems that have a SN listed in Table 1 of this AD, do the following: Table 1 follows:

TABLE 1.—AFFECTED SLIDE/RAFT SNS

0203	0207	0220	0234	0235	0239	0241	0245	0250	0255
0267	0277	0280	0302	0305	0306	0310	0312	0316	0318
0320	0330	0332	0333	0335	0339	0342	0343	0344	0345
0348	0349	0350	0351	0354	0355	0356	0358	0364	0365
0366	0368	0369	0372	0373	0374	0376	0378	0379	0380
0381	0384	0385	0388	0389	0390	0391	0392	0394	0395
0396	0397	0398	0399	0402	0403	0404	0406	0408	0409
0411	0413	0415	0417	0418	0419	0420	0421	0422	0423
0425	0426	0427	0428	0429	0430	0431	0433	0438	0443
0445	0455	0456							

(1) For slide/raft systems currently installed on airplanes, repack the slide/raft system within 2 months after the effective date of this AD in accordance with the Accomplishment Instructions described in Air Cruisers Company SB 777–107–25–06, dated February 19, 1999, and the applicable Air Cruisers Company Folding Procedure P–12054 (for left-hand slide/rafts), Revision G, dated February 1, 2002, or Procedure P–12064 (for right-hand slide/rafts), Revision G, dated February 1, 2002.

(2) For uninstalled slide/raft systems, repack before installation, in accordance with the Accomplishment Instructions described in Air Cruisers Company SB 777–107–25–06, dated February 19, 1999, and the applicable Air Cruisers Company Folding Procedure P–12054 (for left-hand slide/rafts), G, dated February 1, 2002, or Procedure P–12064 (for right-hand slide/rafts), Revision G, dated February 1, 2002.

(g) For slide/raft systems SN 0558 and lower that are not included in Table 1 of this AD, repack the slide/raft systems

in accordance with the applicable Air Cruisers Company Folding Procedure P–12054 (for left-hand slide/rafts), Revision G, dated February 1, 2002, or Procedure P–12064 (for right-hand slide/rafts), Revision G, dated February 1, 2002, at the next required normal maintenance schedule of the slide/raft system, but no later than 18 months after the effective date of this AD.

Credit for Previous Repacking

(h) Slide/raft systems with a SN listed in Table 1 or identified in paragraph (g) of this AD that have already been repacked in accordance with Air Cruisers Company Folding Procedures P–12054, Revision F, dated March 12, 1999, or P–12064, Revision F, dated March 12, 1999, as applicable, before the effective date of this AD, are considered in full compliance with the requirements of paragraph (f) or (g) of this AD.

(i) Slide/raft systems with a SN listed in Table 1 or identified in paragraph (g) of this AD that were repacked under AD 2003–11–03 are considered in compliance with the requirements of paragraph (f) or (g) of this AD.

Alternative Methods of Compliance (AMOCs)

(j) You must request AMOCs as specified in 14 CFR 39.19. All AMOCs must be approved by the Manager, New York Aircraft Certification Office, FAA.

Material Incorporated by Reference

(k) You must use the service information listed in Table 2 of this AD to perform the actions required by this AD. The incorporation by reference of Air Cruisers Company SB 777–107–25–06, dated February 19, 1999, was approved by the Director of the Federal Register on March 7, 2003 (68 FR 4897; January 31, 2003). The Director of the Federal Register approved the incorporation by reference of the documents listed in Table 2 of this AD in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You can get a copy from Air Cruisers Company, Technical Publications Department, PO Box 180, Belmar, NJ 07719–0180; telephone: (732) 681–3527; fax: (732) 280–8212. You can review copies at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Table 2 follows:

TABLE 2.—INCORPORATION BY REFERENCE

Document No.	Page Nos. shown on the page	Revision level shown on the page	Date shown on the page
SB 777–107–25–06 Total Pages: 3.	All	Original	February 19, 1999.
Folding procedure P–12054 Total Pages: 159.	All	G	February 1, 2002.
Folding procedure P–12064 Total Pages: 159.	All	G	February 1, 2002.

Related Information

(1) None.

Issued in Burlington, Massachusetts, on January 26, 2004.

Francis A. Favara,

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

[FR Doc. 04–2051 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16502; Airspace Docket No. 03–ACE–86]

Modification of Class E Airspace; Waverly, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

EFFECTIVE DATES: 0901 UTC, April 15, 2004.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on December 2, 2003 (68 FR 67360) and subsequently published a correction to the direct final rule in the **Federal Register** on December 10, 2003 (68 FR 68973). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on April 15, 2004. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on January 21, 2004.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–2440 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16763; Airspace Docket No. 03–ACE–100]

Modification of Class E Airspace; Springfield, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments; correction.

SUMMARY: This action corrects a direct final rule; request for comments that was published in the **Federal Register** on Thursday, January 15, 2004, (69 FR 2296) [FR Doc. 04–917]. It extends the comment period by thirty days.

DATES: This direct final rule is effective on 0901 UTC, April 15, 2004.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 04–917, published on Thursday, January 15, 2004, (69 FR 2996) modified Class E3 and Class E5 airspace areas at Springfield, MO. The modification enlarged the controlled airspace area around Springfield-Branson Regional Airport to provide proper protection of diverse departures, corrected discrepancies in the Springfield-Branson Regional Airport airport reference point, redefined the location of the Springfield collocated very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) and brought the legal descriptions of Springfield, MO, Class E airspace areas into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. However, the published comment period closing date did not provide sufficient time for public response.

Accordingly, pursuant to the authority delegated to me, the response date to the Springfield, MO, Class E airspace areas, as published in the **Federal Register** on Thursday, January 15, 2004, (69 FR 2996) [FR Doc. 04–917] is corrected as follows:

On page 2296, Column 2, paragraph headed **DATES,** fourth line, change ''January 27'' to read ''February 27.''

Issued in Kansas City, MO, on January 21, 2004.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–2441 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16500; Airspace Docket No. 03–ACE–84]

Modification of Class E Airspace; Oskaloosa, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

EFFECTIVE DATE: 0901 UTC, April 15, 2004.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on December 2, 2003 (68 FR 67358). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such adverse comment, were received with the comment period, the regulation would become effective on April 15, 2004. No adverse comments were received and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on January 21, 2004.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–2442 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16503; Airspace Docket No. 03–ACE–87]

Modification of Class E Airspace; Winterset, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

EFFECTIVE DATE: 0901 UTC, April 15, 2004.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on December 3, 2003 (68 FR 67590) and subsequently published a correction to the direct final rule on December 15, 2003 (68 FR 69599). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on April 15, 2004. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on January 21, 2004.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–2443 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16505; Airspace Docket No. 03–ACE–89]

Modification of Class E Airspace; Cherokee, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

EFFECTIVE DATE: 0901 UTC, April 15, 2004.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on December 12, 2003 (68 FR

69305). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on April 15, 2004. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on January 23, 2004.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–2515 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–14010; Airspace Docket No. 02–AAL–09]

RIN 2120–AA66

Modification and Revocation of Federal Airways; AK

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action revises Very High Frequency Omnidirectional Range (VOR) Federal airway Victor 317 (V–317); and revokes V–307 and V–362 in Alaska. The FAA is taking this action due to the decommissioning of the McInnes Nondirectional Radio Beacon (NDB) in Canada.

EFFECTIVE DATES: 0901 UTC, April 15, 2004.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On January 30, 2003, the FAA published, in the **Federal Register**, a notice proposing to revise V–317 and Amber 15 (A–15); and revoke V–307 and V–362 in Alaska (68 FR 4742). The proposed revision to A–15 has been removed from this action, since a flight inspection was not completed for that portion of the original proposal. Final action on A–15 will be addressed in future rulemaking. The FAA is taking this action due to the decommissioning of the McInnes NDB in Canada.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received regarding this proposal. With the exception of the final action on A–15 and minor editorial changes, this amendment is the same as that proposed in the notice.

The Rule

This action amends title 14 Code of Federal Regulations (14 CFR) part 71 (part 71) by revising V–317, and revoking V–307 and V–362 in Alaska. The FAA is taking this action due to the decommissioning of the McInnes NDB in Canada.

Alaskan VOR Federal airways are published in paragraph 6010(b) of FAA Order 7400.9L dated September 2, 2003 and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Alaska VOR Federal airways listed in this document would be published subsequently in the order.

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

Paragraph 6010(b) Alaskan VOR Federal Airways

* * * * *

V–307 (Revoked)

* * * * *

V–362 (Revoked)

* * * * *

V–317 (Revised)

From Vancouver, BC, Canada via Comox, BC, Canada; Port Hardy, BC, Canada; Sandspit, BC, Canada; Annette Island, AK; Level Island, AK; Sisters Island, AK; to INT Sisters Island 272° and Yakutat, AK, 139° radials. The airspace within Canada is excluded.

* * * * *

Issued in Washington, DC, January 20, 2004.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 04–2437 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–04–001]

RIN 1625–AA09

Drawbridge Operation Regulation; Alabama River, Montgomery, AL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the existing drawbridge operation regulation for the draw of the U.S. 31 bridge across the Alabama River, mile 278.2 at Montgomery, Montgomery County, Alabama. A replacement bridge has been constructed and the existing historic bridge has been removed. Since the bridge has been removed, the regulation controlling the opening and closing of the bridge is no longer necessary.

DATES: This rule is effective February 5, 2004.

ADDRESSES: Documents referred to in this rule are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 501 Magazine Street, New Orleans, Louisiana 70130–3396, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965. The Eighth District Bridge Administration Branch maintains the public docket for this rulemaking.

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

SUPPLEMENTARY INFORMATION:

Good Cause for Not Publishing an NPRM

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Public comment is not necessary since the purpose of the affected regulation is to control the opening and closing of a bridge that has been removed.

Good Cause for Making Rule Effective in Less Than 30 Days

Under 5 U.S.C. 553(d)(3), the Coast Guard finds good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register** for the same reasons stated in the preceding paragraph.

Background and Purpose

The State of Alabama (Department of Transportation) has constructed a bridge of modern safe design to replace the existing swing bridge. The existing swing bridge that had previously serviced the area has been removed. The regulation governing the operation of the swing bridge is found in 33 CFR 117.101(c). The purpose of this rule is to remove 33 CFR 117.101(c) from the Code of Federal Regulations.

Regulatory Evaluation

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

This rule removes a regulation that is obsolete because the bridge it governs no longer exists.

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 have no impact on any small entities because the regulation being removed applies to a bridge that no longer exists.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

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

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons set out in the preamble, the Coast Guard is amending part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

§ 117.101 [Amended]

■ 2. In § 117.101, paragraph (c) is removed and paragraph (d) is redesignated paragraph (c).

Dated: January 28, 2004.

J.W. Stark,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard Dist., Acting.

[FR Doc. 04–2509 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13–03–025]

RIN 1625–AA00

Safety Zone Regulations, New Tacoma Narrows Bridge Construction Project

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; change in effective period.

SUMMARY: The Coast Guard is revising the effective period for temporary safety zones during the tow and moor operations of the caissons being used for the Tacoma Narrows Bridge construction project. The Coast Guard is taking this action to safeguard the public from hazards associated with the transport and construction of the caissons being used to construct piers for the new bridge. These safety hazards include, but are not limited to, hazards to navigation, allisions with the caissons, allisions with the caisson mooring system, and collisions with work vessels and barges. Entry into these zones is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

DATES: This rule is effective from February 6, 2004 through August 6, 2004.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the U.S. Coast Guard Marine Safety Office Puget Sound, 1519 Alaskan Way South, Building 1, Seattle, Washington 98134. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG. Tyana Thayer c/o Captain of the Port Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134, (206) 217–6222.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On 13 August 2003, we published a temporary final rule for Tacoma Narrows Bridge entitled ''Safety Zone Regulations, New Tacoma Narrows Bridge Construction Project'' in **Federal Register** (68 FR 48282) under section 165.T13–016. This temporary final rule extends the effective period until 6 August 2004.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of vessels and persons that transit in the vicinity of the Tacoma Narrows Bridge. On January 13, 2004, the State of Washington Department of Transportation (WADOT) informed the Coast Guard that the contractors involved in the new Tacoma Narrows Bridge construction project had fallen behind schedule and requested an extension. Accordingly, the dangers that exist because of this bridge construction will continue to exist after February 6, 2004. The Coast Guard continues to receive reports of boaters navigating too close to the construction zone and reports of scuba divers diving near the caissons necessitate extending the effective period of this safety zone. If normal notice and comment procedures were followed, this rule would not become effective in sufficient time. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest.

Background and Purpose

As of today, the need for a safety zone still exists. The Coast Guard is extending the temporary safety zone regulation on the Tacoma Narrows and adjoining waters, for the Tacoma Narrows Bridge Project through August 6, 2004. The Coast Guard has determined it is necessary to limit access to a 250-yard radius around each of the two new bridge piers. Caissons are being used to build the new bridge piers. The new bridge piers are located just north of the existing Tacoma Narrows Bridge. The dangers to persons and vessels transiting this area includes, but is not limited to, hazards to navigation, allisions with the caissons, allisions with the caisson mooring system, and collisions with work vessels and barges. The Coast Guard, through this action, intends to promote the safety of persons and vessels in the area. Entry into these zones will be prohibited unless authorized by the Captain of the Port. Coast Guard personnel will enforce these safety zones. The Captain of the Port may be assisted by other Federal, state, or local agencies.

Regulatory Evaluation

This rule is not 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. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DHS is unnecessary. This expectation is based on the fact that the regulated area established by the regulation would encompass a small area that should not impact commercial or recreational traffic. The Coast Guard does not anticipate any significant economic impact.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), we considered whether this rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit this portion of the Tacoma Narrows when this rule is in effect. The zone will not have a significant economic impact due to its short duration and small area. Because the impacts of this rule are expected to be so minimal, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

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 section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule does not impose an unfunded mandate.

Taking of Private Property

This rule does 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

The Coast Guard recognizes the rights of Native American Tribes under the Stevens Treaties. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies to mitigate tribal concerns. Given the flexibility of this rule to accommodate the special needs of mariners in the vicinity of the bridge construction, and the Coast Guard's commitment to working with the Tribes, we have determined that safety in the vicinity of the bridge construction project and fishing rights protection need not be incompatible and therefore have determined that this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Environment

The Coast Guard's preliminary review indicates this rule is categorically excluded from further environmental documentation under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D. The environmental analysis and Categorical Exclusion Determination are available in the docket for inspection and copying where indicated under **ADDRESSES.** All standard environmental measures remain in effect.

List of Subjects in 33 CFR Part 165

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

■ For the reasons set out in the preamble, the Coast Guard amends Part 165 of Title

33, Code of Federal Regulations, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. From February 6, 2004 until August 6, 2004, temporary § 165.T13–016 is reinstated and revised to read as follows:

§ 165.T13–016 Safety Zone Regulations, New Tacoma Narrows Bridge Construction Project.

(a) *Location.* The following areas are safety zones: All waters of the Tacoma Narrows, Puget Sound, and adjoining waters of Washington State, within a 250 yard radius around each of the following coordinates (which are the approximate center points of the two new bridge piers): (1) 47 degrees, 15 minutes, 54.08 seconds North; 122 degrees, 32 minutes, 49.65 seconds West; and (2) 47 degrees, 16 minutes, 15.07 seconds North; 122 degrees, 33 minutes, 15.95 seconds West [Datum: NAD 1983].

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, this Temporary Final Rule applies to any person or vessel in the navigable waters of the United States. No person or vessel may enter or remain in the above safety zones, unless authorized by the Captain of the Port or his designated representatives. Vessels and persons granted authorization to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or his designated representative.

(c) *Effective dates.* This section is effective from February 6, 2004 until August 6, 2004.

Dated: January 26, 2004.

Danny Ellis,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 04–2514 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–04–015]

RIN 1625–AA00

Safety Zone; Delaware River

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone encompassing the Delaware River between the Tacony-Palmyra Bridge and Trenton Falls, Trenton, New Jersey. This safety zone is necessary to provide for the safety of life and property and to facilitate commerce. This safety zone limits transits to steel hulled vessels transiting only during daylight hours due to the hazards created by the ice.

DATES: This rule is effective from January 23, 2004 to March 15, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–04–015 and are available for inspection or copying at Coast Guard Marine Safety Office Philadelphia, One Washington Avenue, Philadelphia, Pennsylvania 19147, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Kevin Sligh or Ensign Jill Munsch, Coast Guard Marine Safety Office/Group Philadelphia, at (215) 271–4889.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and (d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after publication in the **Federal Register**. Publishing an NPRM and delaying its effective date would be contrary to public interest, since immediate action is needed to protect mariners against the hazards associated with ice conditions on the Delaware River. Record cold temperatures causing ice to form at a greater than normal rate made it impracticable and dangerous to mariners to delay publishing this safety zone.

Background and Purpose

During a moderate or severe winter, frozen waterways present numerous hazards to vessels. Ice in a waterway may hamper a vessel's ability to maneuver, and could cause visual aids to navigation to be submerged, destroyed or moved off station. Ice abrasions and ice pressure could also compromise a vessel's watertight integrity, and non-steel hulled vessels would be exposed to a greater risk of hull breach.

When ice conditions develop to a point where vessel operations become unsafe, it becomes necessary to impose operating restrictions to ensure the safe navigation of vessels. Captains of the Port have the authority (33 CFR part 160, subpart B) to restrict and manage vessel movement by implementing a safety zone. The Captain of the Port Philadelphia is establishing a safety zone on the Delaware River that will restrict access through the safety zone to only those vessels with steel hulls and allow for daylight only transits for all vessels through the safety zone during Ice Condition Two.

The purpose of this regulation is to promote maritime safety, and to protect the environment and mariners transiting the area from the potential hazards due to ice conditions that become a threat to navigation. This rule establishes a safety zone encompassing the Delaware River between the Tacony-Palmyra Bridge and Trenton Falls, Trenton, New Jersey.

Discussion of Temporary Final Rule

This rule limits access to the safety zone to only those vessels authorized to enter and operate safely within the zone. Vessels not meeting the operating requirements established by this temporary rule will not be allowed to enter the safety zone. During an emergency situation, a vessel not meeting the operating requirements may obtain permission from the Captain of the Port Philadelphia prior to entering the safety zone during the effective periods. The Captain of the Port will notify the maritime community, via marine broadcasts, of the current ice conditions and the restrictions imposed under those conditions.

Ice condition Three is the readiness condition in which weather conditions are favorable for the formation of ice in the navigable waters of the Delaware River/Bay C&D Canal. Daily reports for the Coast Guard Stations and commercial vessels are monitored.

Ice Condition Two is the alert condition in which ice begins to form in the upper Delaware River/Bay and C&D Canal. The Captain of the Port Philadelphia may impose shaft horsepower and hull type restrictions.

Ice Condition One is the emergency condition in which ice has largely covered the upper Delaware River/Bay

and C&D Canal. Convoys are required and restrictions to shaft horsepower and vessel transit are imposed.

This safety zone will protect mariners transiting the area from the potential hazards associated with ice in the Delaware River during ice condition two.

Regulatory Evaluation

This temporary rule is not 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. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS).

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

Small Entities

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

This will have virtually no impact on any small entities. Therefore, the Coast Guard certifies under section 605 (b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this will not have a significant impact on a substantial number of small entities.

Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guards, call 1–888–REG–FAIR (1–888–743–3247).

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, 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 this rule 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 would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this rule would impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

We have analyzed this rule under Executive Order 12211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is 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, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–015 to read as follows:

§ 165.T05–015 Safety zone; Delaware River.

(a) *Location.* The following area is a safety zone: All waters located on the Delaware River between the Tacony-Palmyra Bridge and Trenton Falls, Trenton, New Jersey.

(b) *Regulations.* (1) All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.23 of this part except:

(i) Only steel hulled vessels may transit the safety zone; and

(ii) Vessels may only transit during daylight hours.

(2) All Coast Guard assets enforcing this safety zone can be contacted on VHF marine band radio, channels 13 and 16. The Captain of the Port can be contacted at (215) 271–4807.

(c) Definitions.

Captain of the Port means the Commanding Officer of the Coast Guard Marine Safety Office/Group Philadelphia or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

Daylight hours means between sunrise and sunset.

Ice Condition Two means the alert condition in which ice begins to form in the Upper Delaware River/Bay and the C&D Canal. The Captain of the Port Philadelphia may impose shaft horsepower, hull type restrictions and daylight only transits when it is observed that ice is beginning to form.

Steel Hulled vessels means only vessels with steel hulls.

(d) *Enforcement period.* This section will be enforced while Ice Condition Two exists during the effective period.

(e) *Effective period.* This section is effective from January 23, 2004 to March 15, 2004.

Dated: January 23, 2004.

Liam J. Slein,

Commander, U.S. Coast Guard, Acting Captain of the Port Philadelphia.

[FR Doc. 04–2513 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–04–021]

RIN 1625–AA00

Safety Zone; Delaware River

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone encompassing the entire Delaware River between the Salem-Hope Generating Station and Trenton Falls, Trenton, New Jersey including the Salem River, Christiana River and Schuylkill River. This safety zone is necessary to provide for the safety of life and property and to facilitate commerce. This safety zone limits transits to steel hulled vessels due to the hazards created by the ice.

DATES: This rule is effective from January 26, 2004 to March 15, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–04–021 and are available for inspection or copying at Coast Guard Marine Safety Office Philadelphia, One Washington Avenue, Philadelphia, Pennsylvania 19147, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Kevin Sligh or Ensign Jill Munsch, Coast Guard Marine Safety Office/Group Philadelphia, at (215) 271–4889.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and (d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after publication in the **Federal Register**. Publishing an NPRM and delaying its effective date would be contrary to public interest, since immediate action is needed to protect mariners against the hazards associated with ice conditions on the Delaware River, Salem River, Christiana River and Schuylkill River. Record cold temperatures causing ice to form at a greater than normal rate made it impracticable and dangerous to mariners to delay publishing this safety zone.

Background and Purpose

During a moderate or severe winter, frozen waterways present numerous hazards to vessels. Ice in a waterway may hamper a vessel's ability to maneuver, and could cause visual aids to navigation to be submerged, destroyed or moved off station. Ice abrasions and ice pressure could also compromise a vessel's watertight integrity, and non-steel hulled vessels would be exposed to a greater risk of hull breach.

When ice conditions develop to a point where vessel operations become unsafe, it becomes necessary to impose operating restrictions to ensure the safe navigation of vessels. Captains of the Port have the authority (33 CFR 160, subpart B) to restrict and manage vessel movement by implementing a safety zone. The Captain of the Port Philadelphia is establishing a safety zone on the Delaware River, Salem River, Christiana River and Schuylkill River that will restrict access through the safety zone to only those vessels with steel hulls through the safety zone during Ice Condition Two.

The purpose of this regulation is to promote maritime safety, and to protect the environment and mariners transiting the area from the potential hazards due to ice conditions that become a threat to navigation. This rule establishes a safety zone encompassing the entire Delaware River between the Salem-Hope Generating Station, Salem County, New Jersey to the entrance of the Appoquinimink River, Kent County, Delaware to Trenton Falls, Trenton, New Jersey including the Salem River, Christiana River and Schuylkill River.

Discussion of Temporary Final Rule

This rule limits access to the safety zone to only those vessels authorized to enter and operate safely within the zone. Vessels not meeting the operating requirements established by this temporary rule will not be allowed to enter the safety zone. During an emergency situation, a vessel not meeting the operating requirements may obtain permission from the Captain of the Port Philadelphia prior to entering the safety zone during the effective periods. The Captain of the Port will notify the maritime community, via marine broadcasts, of the current ice conditions and the restrictions imposed under those conditions.

Ice condition Three is the readiness condition in which weather conditions are favorable for the formation of ice in the navigable waters of the Delaware River/Bay C&D Canal. Daily reports for the Coast Guard Stations and commercial vessels are monitored.

Ice Condition Two is the alert condition in which ice begins to form in the upper Delaware River/Bay and C&D Canal. The Captain of the Port Philadelphia may impose shaft horsepower and hull type restrictions.

Ice Condition One is the emergency condition in which ice has largely covered the upper Delaware River/Bay and C&D Canal. Convoys are required and restrictions to shaft horsepower and vessel transit are imposed.

The safety zone will protect mariners transiting the area from the potential hazards associated with ice in the Delaware River, Salem River, Christiana River and Schuylkill River during Ice Condition Two.

Regulatory Evaluation

This temporary rule is not 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. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS).

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

Small Entities

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

This rule will have virtually no impact on any small entities. Therefore, the Coast Guard certifies under section 605(b) of the regulatory Flexibility Act (5 U.S.C 605(b)) that this will not have a significant impact on a substantial number of small entities.

Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–743–3247).

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 this rule 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 does not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule does 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

We have analyzed this rule under Executive Order 12211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is 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, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–021 to read as follows:

§ 165.T05–021 Safety zone; Delaware River, Salem River, Christiana River and Schuylkill River.

(a) *Location.* The following area is a safety zone: All waters located on the entire Delaware River between the Salem-Hope Generating Station, Salem County, New Jersey to the entrance of the Appoquinimink River, Kent County, Delaware to Trenton Falls, Trenton, New Jersey including the Salem River, Christiana River and Schuylkill River.

(b) *Regulations.* (1) All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.23 of this part except steel hulled vessels may transit the safety zone during Ice Condition Two.

(2) All Coast Guard assets enforcing this safety zone can be contacted on VHF marine band radio, channels 13

and 16. The Captain of the Port can be contacted at (215) 271–4807.

(c) *Definitions.*

Captain of the Port means the Commanding Officer of the Coast Guard Marine Safety Office/Group Philadelphia or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

Ice Condition Two means the alert condition in which ice begins to form in the Upper Delaware River/Bay and the C&D Canal. The Captain of the Port Philadelphia may impose shaft horsepower, hull type restrictions when it is observed that ice is beginning to form.

Steel Hull vessels means only vessels with steel hulls.

(d) *Enforcement period.* This section will be enforced while Ice Condition Two exists during the effective period.

(e) *Effective period.* This section is effective from January 26, 2004 to March 15, 2004.

Dated: January 26, 2004.

Jonathan D. Sarubbi,

Captain, U.S. Coast Guard, Captain of the Port Philadelphia.

[FR Doc. 04–2512 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–04–003]

RIN 1625–AA00

Safety Zone; Chesapeake & Delaware Canal

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone encompassing the Chesapeake & Delaware Canal between Town Point Wharf and Reedy Point. This safety zone is necessary to provide for the safety of life and property and to facilitate commerce. This safety zone limits transits by imposing shaft horsepower and hull restrictions on vessels operating within the safety zone due to the hazards to navigation created by the ice.

DATES: This rule is effective from January 23, 2004 to March 15, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–04–003 and are available for inspection or copying at Coast Guard Marine Safety Office Philadelphia, One Washington Avenue, Philadelphia, Pennsylvania 19147, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Kevin Sligh or Ensign Jill Munsch, Coast Guard Marine Safety Office/Group Philadelphia, at (215) 271–4889.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and (d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after publication in the **Federal Register**. Publishing an NPRM and delaying its effective date would be contrary to public interest, since immediate action is needed to protect mariners against the hazards associated with ice conditions on the Chesapeake & Delaware Canal. Record cold temperatures causing ice to form at a greater than normal rate made it impracticable and dangerous to mariners to delay publishing this safety zone.

Background and Purpose

During a moderate or severe winter, frozen waterways present numerous hazards to vessels. Ice in a waterway may hamper a vessel's ability to maneuver, and could cause visual aids to navigation to be submerged, destroyed or moved off station. Ice abrasions and ice pressure could also compromise a vessel's watertight integrity, and non-steel hulled vessels would be exposed to a greater risk of hull breach.

When ice conditions develop to a point where vessel operations become unsafe, it becomes necessary to impose operating restrictions to ensure the safe navigation of vessels. Captains of the Port have the authority (33 CFR 160, subpart B) to restrict and manage vessel movement by implementing a safety zone. The Captain of the Port Philadelphia is establishing a safety zone on the Chesapeake & Delaware Canal that will restrict access to the Canal to only those vessels with steel hulls and a minimum of 3000 total shaft horsepower.

The purpose of this regulation is to promote maritime safety, and to protect the environment and mariners transiting the area from the potential hazards due to ice conditions that become a threat to navigation. This rule establishes a safety zone encompassing the Chesapeake & Delaware Canal between Town Point Wharf and Reedy Point.

Discussion of Temporary Final Rule

This rule limits access to the safety zone to those vessels authorized to enter and operate safely within the zone. Vessels not meeting the operating requirements established by this temporary rule will not be allowed to enter the safety zone. During an emergency situation, a vessel not meeting the operating requirements may obtain permission from the Captain of the Port Philadelphia prior to entering the safety zone during the effective periods. The Captain of the Port will notify the maritime community, via marine broadcasts, of the current ice conditions and the restrictions imposed under those conditions.

This safety zone will protect mariners transiting the area from the potential hazards associated with ice in the Chesapeake & Delaware Canal during ice condition two.

Regulatory Evaluation

This temporary rule is not 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. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS).

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

Small Entities

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

This rule will have virtually no impact on any small entities. Therefore, the Coast Guard certifies under section 605(b) of the regulatory Flexibility Act (5 U.S.C 605(b)) that this will not have a significant impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement

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

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guards, call 1–888–REG–FAIR (1–888–743–3247).

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 this rule 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 does not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule does 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

We have analyzed this rule under Executive Order 12211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is 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, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–003 to read as follows:

§ 165.T05–003 Safety zone; Chesapeake & Delaware Canal.

(a) *Location.* The following area is a safety zone: All waters located on the Chesapeake & Delaware Canal between Town Point Wharf and Reedy Point.

(b) *Regulations.* (1) All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.23 of this part except for steel hulled vessels with a minimum of 3000 total shaft horsepower, which may transit the safety zone.

(2) All Coast Guard assets enforcing this safety zone can be contacted on VHF marine band radio, channels 13 and 16. The Captain of the Port can be contacted at (215) 271–4807.

(c) *Definitions.*

Captain of the Port means the Commanding Officer of the Coast Guard Marine Safety Office/Group Philadelphia or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

Ice Condition Two means the alert condition in which ice begins to form in the Upper Delaware River/Bay and the C&D Canal.

Shaft horsepower means a measure of the actual mechanical energy per unit time delivered to a turning shaft.

Steel Hull vessel means only vessels with steel hulls.

(d) *Enforcement period.* This section will be enforced while Ice Condition Two exists during the effective period.

(e) *Effective period.* This section is effective from January 23, 2004 to March 15, 2004.

Dated: January 23, 2004.

Liam J. Slein,

Commander, U.S. Coast Guard, Acting Captain of the Port Philadelphia.

[FR Doc. 04–2511 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–04–022]

RIN 1625–AA00

Safety Zone; Chesapeake & Delaware Canal

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone encompassing the Chesapeake & Delaware Canal between Town Point Wharf and Reedy Point. This safety zone is necessary to provide for the safety of life and property and to facilitate commerce. This safety zone limits transits by imposing keel cooler or upper and lower intake restrictions on vessels operating within the safety zone due to the hazards to navigation created by the ice.

DATES: This rule is effective from January 27, 2004, to March 15, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–04–022 and are available for inspection or copying at Coast Guard Marine Safety Office Philadelphia, One Washington Avenue, Philadelphia, Pennsylvania 19147, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Kevin Sligh or Ensign Jill Munsch, Coast Guard Marine Safety Office/Group Philadelphia, at (215) 271–4889.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and (d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after publication in the **Federal Register**. Publishing an NPRM and delaying its effective date would be contrary to public interest, since immediate action is needed to protect mariners against the hazards associated with ice conditions on the Chesapeake & Delaware Canal. Record cold temperatures causing ice to form at a greater than normal rate made it impracticable and dangerous to mariners to delay publishing this safety zone.

Background and Purpose

During a moderate or severe winter, frozen waterways present numerous hazards to vessels. Ice in a waterway may hamper a vessel's ability to maneuver, and could cause visual aids to navigation to be submerged, destroyed or moved off station. Ice abrasions and ice pressure could also compromise a vessel's watertight integrity, and non-keel hull cooler or upper and lower intake equipped vessels would be exposed to a greater risk of loss of propulsion during the narrow transit through the C&D Canal, posing a risk of running aground.

When ice conditions develop to a point where vessel operations become unsafe, it becomes necessary to impose operating restrictions to ensure the safe navigation of vessels. Captains of the Port have the authority (33 CFR part 160, subpart B) to restrict and manage vessel movement by implementing a safety zone. The Captain of the Port Philadelphia is establishing a safety zone on the Chesapeake & Delaware Canal that will restrict access to the Canal to only those vessels with keel coolers or upper and lower intakes.

The purpose of this regulation is to promote maritime safety, and to protect the environment and mariners transiting the area from the potential hazards due to ice conditions that become a threat to navigation. This rule establishes a safety zone encompassing the Chesapeake & Delaware Canal between Town Point Wharf and Reedy Point.

Discussion of Temporary Final Rule

This rule limits access to the safety zone to those vessels authorized to enter and operate safely within the zone. Vessels not meeting the operating requirements established by this temporary rule will not be allowed to enter the safety zone. During an emergency situation, a vessel not meeting the operating requirements may obtain permission from the Captain of the Port Philadelphia prior to entering the safety zone during the effective periods. The Captain of the Port will notify the maritime community, via marine broadcasts, of the current ice conditions and the restrictions imposed under those conditions.

This safety zone will protect mariners transiting the area from the potential hazards associated with ice in the Chesapeake & Delaware Canal during Ice Condition Two.

Regulatory Evaluation

This temporary rule is not 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. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS).

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

Small Entities

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

This rule will have virtually no impact on any small entities. Therefore, the Coast Guard certifies under section 605(b) of the regulatory Flexibility Act (5 U.S.C 605(b)) that this will not have a significant impact on a substantial number of small entities.

Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–743–3247).

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 this rule 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 does not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule does 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

We have analyzed this rule under Executive Order 12211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is 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, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–022 to read as follows:

§ 165.T05–022 Safety zone; Chesapeake & Delaware Canal.

(a) *Location.* The following area is a safety zone: All waters located on the Chesapeake & Delaware Canal between Town Point Wharf and Reedy Point.

(b) *Regulations.* (1) All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.23 of this part.

(2) All vessels transiting the safety zone are required to be equipped with a keel cooler or both upper and lower intakes.

(3) All vessels transiting the safety zone are required to be steel hulled with a minimum of 3000 total shaft horsepower.

(4) All Coast Guard assets enforcing this safety zone can be contacted on VHF marine band radio, channels 13 and 16. The Captain of the Port can be contacted at (215) 271–4807.

(c) *Definitions.*

Captain of the Port means the Commanding Officer of the Coast Guard Marine Safety Office/Group Philadelphia or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

Ice Condition Two means the alert condition in which ice begins to form in the Upper Delaware River/Bay and the C&D Canal.

Keel Cooler means a circulation system that keeps hot water flowing through the sea chest to prevent freezing during the presence of hazardous ice conditions.

Shaft horsepower means a measure of actual mechanical energy per unit time delivered to a turning shaft.

Steel Hull vessel means only vessels with steel hulls.

Upper and Lower Intake means the openings in a vessel that take in raw water to cool or heat machinery within the vessel. In order to insure vessel maintains propulsion, both upper and lower intakes are required during hazardous ice conditions.

(d) *Enforcement period.* This section will be enforced while Ice Condition Two exists during the effective period.

(e) *Effective period.* This section is effective from January 27, 2004 to March 15, 2004.

Dated: January 27, 2004.

Jonathan D. Sarubbi,

Captain, U.S. Coast Guard, Captain of the Port Philadelphia.

[FR Doc. 04–2508 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7825]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency

Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

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

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

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

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

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

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

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

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

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

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

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

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
Region III:				
Virginia: Bristol, Independent City	510022	February 12, 1976, Emerg.; April 15, 1982, Reg.; February 4, 2004, Susp.	Feb. 4, 2004	Feb. 4, 2004
Region V:				
Illinois:.				
Hanover Park, Village of, Cook County, Du Page County.	170099	April 19, 1973, Emerg.; November 15, 1978, Reg.; February 4, 2004, Susp.	.....do*	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
Schaumburg, Village of, Cook County, Du Page County.	170158	October 13, 1972, Emerg.; February 15, 1979, Reg.; February 4, 2004, Susp.	.....do	Do.
Cook County, Unincorporated Areas	170054	March 9, 1973, Emerg.; April 15, 1981, Reg.; February 4, 2004, Susp.	.....do	Do.

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

Anthony S. Lowe,
Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 04–2487 Filed 2–4–04; 8:45 am]
BILLING CODE 6718–05–P

Proposed Rules

Federal Register
Vol. 69, No. 24
Thursday, February 5, 2004

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–CE–60–AD]

RIN 2120–AA64

Airworthiness Directives; Glasflugel—Ing. E. Hanle Model GLASFLUGEL Kestrel Sailplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Glasflugel—Ing. E. Hanle (Glasflugel) Model GLASFLUGEL Kestrel sailplanes. This proposed AD would require you to inspect the airbrake actuating shaft for deformation and cracks (hereon referred to as damage). If any damage is found, this proposed AD would also require you to repair or replace the airbrake actuation shaft. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. We are issuing this proposed AD to detect and correct damage to the airbrake actuation shaft, which could result in failure of the airbrake control. This failure could lead to loss of control of the sailplane.

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

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

- *By mail:* FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–60–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.
- *By fax:* (816) 329–3771.
- *By e-mail: 9–ACE–7–Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 2003–CE–60–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII.

You may get the service information identified in this proposed AD from Hansjorg Streifeneder, Glasfaser-Flugzeug-Service GmbH, Hofener Weg, D–72582, Grabenstetten, Germany; telephone: 07382 1032; facsimile: 07382 1629; e-mail: *streifly@aol.com.*

You may view the AD docket at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–60–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Office hours are 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''AD Docket No. 2003–CE–60–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it. We will date-stamp your postcard and mail it back to you.

Are there any specific portions of this proposed AD I should pay attention to? We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. If you contact us through a nonwritten communication and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend this proposed AD in light of those comments and contacts.

Discussion

What events have caused this proposed AD? The Lutfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified FAA that an unsafe condition may exist on all Glasflugel Model GLASFLUGEL Kestrel sailplanes. The LBA reports that, on one of the affected sailplanes, the airbrakes would not completely open or close.

A visual inspection of that sailplane revealed cracks and deformity (damage) on the airbrake actuating shaft. Incorrect locking forces of the airbrake control caused the damage.

What are the consequences if the condition is not corrected? If not detected and corrected, damage to the airbrake actuating shaft could result in failure of airbrake control. This failure could lead to loss of control of the sailplane.

Is there service information that applies to this subject? H. Streifeneder has issued Technical Note TN 401–26, dated November 22, 2001.

What are the provisions of this service information? The service bulletin includes procedures for:

—Inspecting the airbrake actuation shaft for damage; and
—Repairing or replacing any damaged airbrake actuation shaft.

What action did the LBA take? The LBA classified this technical note as mandatory and issued German AD Number 2002–051, dated March 7, 2002, to ensure the continued airworthiness of these sailplanes in Germany.

Did the LBA inform the United States under the bilateral airworthiness agreement? These Glasflugel Model GLASFLUGEL Kestrel sailplanes are manufactured in Germany and are type-certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Under this bilateral airworthiness agreement, the LBA has kept us informed of the situation described above.

FAA's Determination and Requirements of This Proposed AD

What has FAA decided? We have examined the LBA's findings, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described previously is likely to exist or develop on other Glasflugel Model GLASFLUGEL Kestrel sailplanes of the

same type design that are registered in the United States, we are proposing AD action to detect and correct damage to the airbrake actuating shaft, which could result in failure of airbrake control. This failure could lead to loss of control of the sailplane.

What would this proposed AD require? This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.

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

Costs of Compliance

How many sailplanes would this proposed AD impact? We estimate that this proposed AD affects 16 sailplanes in the U.S. registry.

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

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 workhour × $65 per hour = $65	Not applicable	$65	$65 × 16 = $1,040.

We estimate the following costs to accomplish any necessary repairs or replacements that would be required based on the results of this proposed inspection. We have no way of determining the number of sailplanes that may need this repair or replacement:

Labor cost	Parts cost	Total cost per airplane
5 workhours × $65 per hour = $325	$40	$325 + $40 = $365.

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this proposed AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''AD Docket No. 2003–CE–60–AD'' in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Glasflugel—Ing. E. Hanle: Docket No. 2003–CE–60–AD

When Is the Last Date I Can Submit Comments on This Proposed AD?

(a) We must receive comments on this proposed airworthiness directive (AD) by March 4, 2004.

What Other ADs Are Affected by This Action?

(b) None.

What Sailplanes Are Affected by This AD?

(c) This AD affects Model GLASFLUGEL Kestrel sailplanes, all serial numbers, that are certificated in any category.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified in this AD are intended to detect and correct damage to the airbrake actuation shaft, which could result in failure of the airbrake control. This failure could lead to loss of control of the sailplane.

What Must I Do To Address This Problem?

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) Inspect the airbrake actuation shaft for cracks and deformation (damage).	Within the next 25 hours time-in-service (TIS) after the effective date of this AD. Repetitively inspect thereafter at intervals not to exceed 12 calendar months.	Follow H. Streifeneder Technical Note TN 401–26, dated November 22, 2001.
(2) Repair or replace any cracked or deformed airbrake actuation shaft found during any inspection required in paragraph (e)(1) of the AD.	Before further flight after any inspection required in paragraph (e)(1) of this AD in which damage is found. Continue with repetitive inspections after repairs or replacements are made.	Follow H. Streifeneder Technical Note TN 401–26, dated November 22, 2001.

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.13. Send your request to the Manager, Standards Office, Small Airplane Directorate, FAA. For information on any already approved alternative methods of compliance, contact Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; facsimile: (816) 329–4090.

May I Get Copies of the Documents Referenced in This AD?

(g) You may get copies of the documents referenced in this AD from Hansjorg Streifeneder, Glasfaser-Flugzeug-Service GmbH, Hofener Weg, D–72582 Grabenstetten, Germany; telephone: 07382 1032; facsimile: 07382 1629; e-mail: *streifly@aol.com*. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Is There Other Information That Relates to This Subject?

(h) Germany AD Number 2002–051, dated March 7, 2002.

Issued in Kansas City, Missouri, on January 26, 2004.

Dorenda D. Baker,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–2484 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16707; Airspace Docket No. 2003–ANE–104]

Proposed Establishment of Class E Airspace; Manchester, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes the Establishment of a Class E airspace area at Manchester, NH (KMHT) to provide for controlled airspace upward from the surface during the times when the air traffic controller tower at Manchester will be closed.

DATES: Comments must be received on or before April 5, 2004.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 2050–0001. You must identify the docket Number at the beginning of your comments, FAA–2003–16707/Airspace Docket 2003–ANE–104. You may also submit comments using the Internet at: *http://dms.dot.gov.* You may review the public docket in person in the Dockets Office between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays. The docket contains the proposal, any comments received, and any final disposition. The Docket Office (telephone 1–800–647–5527) is located on the plaza level of the Department of Transportation NASSIF Building at the same address.

You may examine an informal docket by appointment at the New England Region, Air Traffic Division, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7520.

FOR FURTHER INFORMATION CONTACT: Angel Cases, Air Traffic Division, Airspace Branch, ANE–520, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7520; fax (781) 238–7596.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting written data, views, or arguments. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal and determining whether additional rulemaking action is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal that might suggest a need to modify the proposed rule. comments must identify both docket numbers and must be submitted to the address listed under **ADDRESSES.** If you want the FAA to acknowledge receipt of your comment then with your comment send a self-addressed, stamped postcard with the following statement: ''Comments to Docket No. FAA–2003–16707, Airspace Docket No. 2003–ANE–104.'' We will date/time stamp the postcard and return it to you. We will consider all comments received on or before the closing date for comments, and may change the proposal in light of the comments we receive. All comments submitted are available for examination in the Rules Docket and on the Internet, both before and after the closing date for comments. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Availability of NRPM's

An electronic copy of this document may be downloaded through the Internet at: *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page, *http://www.faa.voc*, or the Superintendent of Document's Web page, *http://access.gpo.gov/nara.*

In addition, any person may obtain a copy of this NRPM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Requests must contain both docket numbers for this notice. If you are interested in being placed on a mailing list for future NPRMs, you should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

The Proposal

The FAA is proposing to establish a Class E airspace area extending upward from the surface at Manchester Airport,

Manchester, NH. The purpose of this controlled airspace will be to provide for controlled airspace from the surface to accommodate aircraft executing instrument approaches and departures from the airport during times when the air traffic control town at Manchester is closed. The airspace in the vicinity of Manchester, NH is currently within a Class C area. In a separate action, the FAA will be proposing to modify the current Class C area to be effective only during those times when the air traffic control tower is open. When that air traffic control tower would be closed, the airspace from the surface to 700 feet would revert to uncontrolled airspace. This action is therefore necessary to provide for controlled airspace from the surface during those times when the air traffic control tower is closed in order to accommodate aircraft executing instrument approaches and departures to and from Manchester during those times.

Class E airspace designations for airspace extending upward from the surface of an airport are published in paragraph 6002 of FAA Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in this Order.

Agency Findings

This rule does not have federalism implications, as defined in Executive Order No. 13132, because it does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. According, the FAA has not consulted with state authorities prior to publication of this rule.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

Paragraph 6002 Class E Airspace Areas Extending Upward From the Surface of an Airport

* * * * *

ANE NH E2 Manchester, NH [New]

Manchester Airport, NH
(Lat. 42°55′57″ N., long. 71°26′8″ W.)

Within a 5-mile radius of the Manchester Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Director.

* * * * *

Issued in Burlington, MA, on January 13, 2004.

William C. Yuknewicz,

Acting Manager, Air Traffic Division, New England Region.

[FR Doc. 04–2445 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAR Case 2002–024 Correction]

RIN 9000–AJ80

Federal Acquisition Regulation; Electronic Representations and Certifications; Correction

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Correction.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are issuing a correction to the proposed rule issued as FAR case 2002–024, Electronic Representations and Certifications, to correct an amendatory instruction.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Duarte at (202) 501–4755, General Services Administration, Regulatory Secretariat, Washington, DC 20405.

Correction

In the proposed rule document appearing at 69 FR 4012, January 27, 2004, on page 4015, first column, amendatory instruction 9 is corrected to read as follows: ''Amend section 52.212–3 by revising the date of the provision; adding an introductory paragraph; and adding paragraph (j) to read as follows:''

Dated: January 29, 2004.

Ralph De Stefano,

Acting Director, Acquisition Policy Division.

[FR Doc. 04–2348 Filed 2–4–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket Number RSPA–97–3001]

RIN 2137–AC54

Pipeline Safety: Periodic Underwater Inspections

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

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the comment period for public comments on the proposed regulations to require periodic underwater inspections of natural gas and hazardous liquid pipelines offshore or crossing navigable waterways in waters less than 15 feet deep.

DATES: Interested persons are invited to submit written comments by March 10, 2004. Late filed comments will be considered to the extent practicable.

ADDRESSES:

Filing Information

You may submit written comments by mail or delivery to the Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. It is open from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays. All written comments should identify the docket and notice numbers stated in the heading of this notice. Anyone desiring confirmation of mailed comments must include a self-addressed stamped postcard.

Privacy Act Statement

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (volume 65, number 70; pages 19477–78), or you may visit *http://dms.dot.gov*.

Electronic Access

You may also submit written comments to the docket electronically. To submit comments electronically, log on to the following Internet Web address: *http://dms.dot.gov*. Click on ''Help & Information'' for instructions on how to file a document electronically.

General Information

You may contact the Dockets Facility by phone at (202) 366–9329, for copies of this proposed rule or other material in the docket. All materials in this docket may be accessed electronically at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: L.E. Herrick by phone at (202) 366–5523, by fax at (202) 366–4566, or by e-mail at *le.herrick@rspa.dot.gov*, regarding the subject matter of this proposed rule. General information about RSPA's Office of Pipeline Safety (OPS) programs may be obtained by accessing OPS's Internet page at *http://ops.dot.gov*.

SUPPLEMENTARY INFORMATION: On December 12, 2003, RSPA/OPS published a notice of proposed rulemaking in the **Federal Register** (68 FR 69368) to amend the pipeline safety regulations at 49 CFR parts 192 and 195 to require owners and operators of pipeline facilities to develop procedures to conduct periodic underwater depth of burial inspections of underwater pipelines. The procedures would assess the risk of a pipeline becoming exposed or a hazard to navigation by taking into account the dynamics of the waterway, including the probability of flotation, scour, erosion, and major storms. The operator would also be required to establish a risk-based timetable for inspection of underwater pipelines.

In response to the NPRM the Interstate Natural Gas Association of America (INGAA) submitted a request for extension of the comment period. It noted that the end of year holidays and ongoing efforts to implement other regulatory requirements minimized the opportunity for the public to provide meaningful comments on the NPRM by the published due date.

Issued in Washington, DC, on January 30, 2004.

Richard D. Huriaux,

Manager, Regulations, Office of Pipeline Safety.

[FR Doc. 04–2453 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[I.D. 013004D]

Public Scoping Meetings on the Management of Antarctic Marine Living Resources Within the Area of the Convention on the Conservation of Antarctic Marine Living Resources

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

ACTION: Notice of intent to prepare a programmatic environmental impact statement (EIS); notice of scoping meetings; request for written comments.

SUMMARY: NMFS announces its intent to prepare an EIS in accordance with the National Environmental Policy Act of 1969 (NEPA) on the Federal management of Antarctic marine living resources (AMLR) pursuant to conservation and management measures adopted by the Commission for the Conservation of Antarctic Marine Living Resources (the Commission or CCAMLR.) NMFS will convene public scoping meetings in Silver Spring, MD, and Long Beach, CA, to solicit comments on AMLR fishery issues and potential management options related to these resources. The scope of the EIS analysis will, among other things, describe activities related to the management, monitoring, and conduct of the fisheries; the ecological relationships between harvested, dependent and related populations of AMLR; the potential impacts to protected species, non-target species, and fish habitat. The scoping meetings will provide for public input on the issues, range of alternatives, and impacts the EIS should consider. Written comments will also be accepted concerning the various management options the EIS should consider.

DATES: Public scoping meetings will be held in Silver Spring, MD, on March 1, 2004, and in Long Beach, CA, on March 3, 2004. Written comments must be submitted by March 22, 2004. See **SUPPLEMENTARY INFORMATION** for specific dates, times, and locations.

ADDRESSES: Written comments on the issues, range of alternatives, and impacts that should be discussed in the EIS may be sent to Robert Gorrell, Office of Sustainable Fisheries—F/SF3, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910 or via facsimile (fax) at 301–713–1193 and must be received by March 22, 2004. Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *CCAMLR-Scoping@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: I.D. 013004D, Scoping for CCAMLR.

FOR FURTHER INFORMATION CONTACT: Robert Gorrell, 301–713–2341 Ext. 150.

SUPPLEMENTARY INFORMATION: Under the Antarctic Marine Living Resources Convention Act of 1984 (AMLRCA) (16 U.S.C. 2431 *et seq.*; *see* 50 CFR part 300, Subparts A and G), the United States implements the conservation and management decisions of CCAMLR for the harvesting and importation of all AMLR other than whales and seals found within the Area of the Convention on the Conservation of Antarctic Marine Living Resources (the Convention Area). The management of AMLR is vested in the Secretary of Commerce (Secretary). The Secretary is directed by the AMLRCA to consult

with the Secretary of State, the agency in which the Coast Guard is operating, and other appropriate departments and agencies of the United States in promulgating regulations implementing the AMLRCA and CCAMLR measures.

NEPA requires preparation of an EIS for major Federal actions significantly impacting the quality of the human environment. Regulations implementing NEPA at 40 CFR 1502.4(b) state: ''Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as adoption of new agency programs or regulations. Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decision making.'' NMFS has decided to prepare a programmatic EIS for all activities regulated by the United States pursuant to the conservation and management measures adopted by CCAMLR.

Background

AMLR other than whales and seals in the Convention Area are managed pursuant to the conservation and management decisions of CCAMLR. The Convention Area is the area south of 60° South latitude and between that latitude and the Antarctic Convergence forming part of the Antarctic marine ecosystem. Conservation and management decisions for AMLR within the Convention Area are made by consensus during annual meetings of the Commission created by the Convention. The United States is a contracting party and a member of the Commission. The Commission adopted its first conservation measures during its third annual meeting in 1984.

With respect to the measures adopted by CCAMLR at each of its annual meetings, the Convention provides that if a member of the Commission, within ninety days of the notification of measures adopted by the Commission, notifies the Commission that it is unable to accept any measure, in whole or in part, the measure, shall not, to the extent stated, be binding upon that member of the Commission.

Pursuant to AMLRCA, the Secretary of State, with the concurrence of the Secretary of Commerce and the Director of the National Science Foundation, appoints the U.S. representative to the Commission. The AMLRCA requires the Secretary of State to publish a **Federal Register** notice of the conservation and other measures adopted annually by the Commission and solicits public comments on those measures.

In 1986, NMFS prepared an environmental assessment (EA) that analyzed the effects on the human environment of the regulations that implemented AMLRCA. In 2000, NMFS prepared an EA that analyzed the effects of CCAMLR's toothfish Catch Documentation Scheme (CDS) on the importation of toothfish into the United States. As a part of that analysis, NMFS looked at the fishery-wide effects on the human environment of the harvesting and trade sectors for toothfish. This analysis was critical to the implementation of the CDS, a scheme developed by CCAMLR to curtail the negative effects on toothfish stocks of illegal, unregulated and unreported fishing for toothfish. In 2003, NMFS prepared an EA that also analyzed the fishery-wide effects on the human environment. The 2003 EA focused on a preapproval process for the importation of toothfish into the United States. The process was created by NMFS to streamline the administration of the CDS and enhance efforts to prevent and discourage unlawful harvest and trade in toothfish.

Each of these EAs led to a finding of no significant impact to the human environment and, thus, no EIS was prepared. However, based on information presented to CCAMLR by its Scientific Committee in the years since 1986, trade tracking and monitoring of toothfish, and an increase in the number of U.S. participants in fisheries in the Convention Area, NMFS intends to prepare an EIS examining the effects of these changes to the fishery on the human environment.

Public Involvement

Public scoping is an early and open process for determining the scope of issues to be addressed. A principle objective of the scoping and public involvement process is to identify possible regulatory alternatives that, with adequate analysis, will delineate critical issues and provide a clear basis for distinguishing between those alternatives and selecting a preferred alternative.

In developing a draft EIS, NMFS seeks public comment for possible alternatives to implement the conservation and management measures adopted by CCAMLR. Those measures include: Compliance and enforcement (including permitting by CCAMLR members); the toothfish catch documentation scheme; gear regulations; data reporting; research and experiments; minimization of incidental mortality; general measures for new and exploratory fisheries; fishing seasons, closed areas and prohibitions of fishing; bycatch limits; and CCAMLR Ecosystem Monitoring and Management sites. Current measures can be found at 50 CFR part 300, Suparts A and G. In addition to developing possible alternatives to these management components of the CCAMLR program, scoping meetings will serve to identify any issues that may improve or otherwise support U.S. participation in CCAMLR. For example, should the United States take stronger measures than those adopted by the Commission to address illegal, unregulated or unreported (IUU) fishing? In summary, public input is sought on possible alternatives to current regulations, on fishery or other issues, and on impacts the EIS should consider with a focus on increased U.S. fishing participation and contemporary scientific information.

After scoping meetings are concluded, NMFS will prepare a Draft Environmental Impact Statement (DEIS) and file it with the Environmental Protection Agency (EPA). The EPA will then publish a notice of availability (NOA) for the DEIS in the **Federal Register** with a 45-day public comment period. After considering all public comments, NMFS will prepare a Final Environmental Impact Statement (FEIS) and file it with the EPA. The EPA will then publish a NOA for the FEIS. At this time NMFS is unaware of the need to change the way in which it implements the conservation and management measures adopted by CCAMLR; however, the NEPA review may cause NMFS to reconsider the need for change.

Dates, Times, and Locations for Public Scoping Meetings

March 1, 2004, 2–4 p.m., Room 2358, SSMC2, 1325 East-West Highway, Silver Spring, MD 20910.

March 3, 2004, 2–5 p.m., Room 3300, Glen Anderson Federal Building, 501 W. Ocean Boulevard, Long Beach, CA 90802.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to, in Long Beach, Svein Fougner, Phone 562–980–4040, Fax 562–980–4047 or, in Silver Spring, Robert Gorrell, Phone 301–713–2341 Ext. 150, Fax 301–713–1193 at least five days prior to the meeting date.

Authority: 16 U.S.C. 2431 *et seq.*

Dated: February 2, 2204.

Bruce C. Morehead,

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

[FR Doc. 04–2534 Filed 2–4–04; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 121603A]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs); Correction

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

ACTION: Correction to a notification of a proposal for EFPs to conduct experimental fishing.

SUMMARY: On December 24, 2003, NMFS announced that the Assistant Regional Administrator, Northeast Region, NOAA Fisheries (Assistant Regional Administrator) was proposing to issue EFPs in response to an application submitted by the Cape Cod Commercial Hook Fisherman's Association (CCCHFA), in collaboration with Massachusetts Division of Marine Fisheries (DMF), and Research, Environmental and Management Support (REMSA). These EFPs would allow up to 17 vessels to fish for haddock using longline gear or jig gear in Northeast (NE) multispecies year-round Georges Bank (GB) Closed Area I (CAI) during the months of January, February, and May through September 2004. In this notification, NMFS announces that the **Federal Register** notification contained a typographical error in the description of the area where the experiment would be conducted. This notification informs the public of the typographical error contained in December 24, 2003, document and informs the public that revised EFPs containing the correct coordinates will be issued to the applicant.

DATES: Comments on this action must be received at the appropriate address or fax number (*see* **ADDRESSES**) on or before February 20, 2004.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, NE Regional Office One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Haddock EFP Proposal.'' Comments may also be sent via fax to (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Heather Sagar, Fishery Management Specialist, phone: 978–281–9341, fax: 978–281–9135, email: *heather.sagar@noaa.gov*

SUPPLEMENTARY INFORMATION:

Background

On December 24, 2003 (68 FR 74542), NMFS published notification in the **Federal Register** announcing the receipt of an application for an EFP to conduct a study to evaluate the best spatial and temporal location for a directed haddock hook-gear fishery in GB CA I, while having minimal impact to GB cod. The results of the proposed study could be used by the New England Fishery Management Council and NMFS to determine the feasibility of establishing a Special Access Program for traditional haddock hook-and-line fishery in CA I. The **Federal Register** notification indicated the study would occur in a specified area within the northern portion of CA I (north of loran-C line 13660). The 15–day comment period on the proposed EFP closed on January 8, 2004. NMFS recently issued EFPs to the applicant that indicated that the study would be conducted within the northern portion of CA I (north of loran-C line 13660). Upon receipt of the EFPs, the applicant informed NMFS that an incorrect coordinate was cited in the EFP and the **Federal Register** notice. On page 74543, column 3, first full paragraph, the coordinate provided in the fourth line should have read ''(north of loran-C line 43660)'' rather than ''(north of loran-C line 13660).''

An Environmental Assessment (EA) was originally prepared for the proposed study that analyzed the impacts of the proposed experimental fishery on the human environment. Although the coordinates identified numerically in the EA referred to the incorrect coordinate, the maps contained in the EA clearly identified the correct coordinates (northern portion of CA I (north of loran-C line 43660) for this study. The EA analyzed the impacts of the proposed experimental fishery on the human environment based on the area correctly identified in the maps provided in the EA. The EA concluded that the activities proposed to be conducted under the requested EFPs are consistent with the goals and objectives of the NE Multispecies Fishery Management Plan, would not be detrimental to the well-being of any stocks of fish harvested, and would have no significant environmental impacts. The EA also concluded that the experimental fishery would not be detrimental to essential fish habitat, marine mammals, or protected species. The ''Finding of No Significant Impact'' contained in the EA was signed by the Assistant Administrator for Fisheries on January 27, 2004.

Through this document, NMFS informs the public that the coordinates contained in the December 24, 2003, **Federal Register** notification contained a typographical error. The document should have identified the northern portion of CA I in which the study would be conducted as north of loran-C line 43660. NMFS also informs the public that NMFS intends to re-issue EFPs containing the correct coordinates. However, because the original **Federal Register** document contained the incorrect coordinates that may have caused confusion, NMFS is inviting comments on the revision to the EFPs. Should NMFS receive substantive comments on EFPs, NMFS may reconsider whether issuance of, modificatiopon to or rescission of the EFPs would be appropriate.

Therefore, on page 74543, third column, first sentence under section entitled, ''Proposed EFP'', remove ''(north of loran-C line 13660).'' and in its place insert ''(north of loran-C line 43660).''

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

Dated: February 2, 2004.

Bruce C. Morehead,

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

[FR Doc. 04–2412 Filed 2–2–04; 1:07 pm]

BILLING CODE 3510–22–S

Notices

Federal Register

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Thursday, February 5, 2004

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. FV–03–378]

Notice of Request for New Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces that the Agricultural Marketing Service (AMS) is requesting approval from the Office of Management and Budget of a new information collection: the USDA Food and Commodity Connection Web site.

DATES: Comments received by April 5, 2004 will be considered.

ADDITIONAL INFORMATION OR COMMENTS: Contact Lynne E. Yedinak, Food Quality Assurance Staff, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0243, 1400 Independence Avenue, SW., Washington, DC 20250–0243, telephone: (202) 720–9939 and Fax: (202) 690–0102.

SUPPLEMENTARY INFORMATION:

Title: USDA Food and Commodity Connection Web site.

OMB Number: 0581-New.

Expiration Date of Approval: 3 years from date of OMB approval.

Type of Request: New Information Collection.

Abstract: The information collection requirements in this request are needed for the operation of the U.S. Department of Agriculture (USDA) Food and Commodity Connection Web site, which operates pursuant to the authority of Section 32 of Public Law 74–320. The USDA Food and Commodity Connection Web site supports the U.S. Department of Agriculture, Agricultural Marketing Service mission of facilitating the efficient, fair marketing of U.S. agricultural products. Registering to participate on or use of the USDA Food and Commodity Connection Web site is voluntary.

The USDA Food and Commodity Connection Web site is being developed to assist the institutional food service community across the United States. The USDA Food and Commodity Connection Web site focuses on providing information and assistance to institutional food service professionals (public and private schools, the military, Veterans Administration facilities, Native American facilities, health care facilities, colleges and universities, prisons, child care facilities and facilities for needy families) in identifying processors who can further process (manufacture value-added foods) USDA supplied commodities that best meet their nutritional requirements. At the same time, the USDA Food and Commodity Connection Web site provides a platform for processors, distributors, and brokers to post information about their commercial food products, in addition to their further processed USDA supplied commodities, that are available for use by institutional food service professionals.

Institutional food service professionals (public and private schools, the military, Veterans Administration facilities, Native American facilities, health care facilities, colleges and universities, prisons, child care facilities and facilities for needy families) who choose to register on the USDA Food and Commodity Connection Web site will provide the following information: the registrant's name, position, e-mail address, telephone number, school/organization name, and address. Processors who choose to register on the USDA Food and Commodity Connection Web site provide the following information: confirmation that the company is eligible to participate in Federal procurement, the registrant's name, position, e-mail address, telephone number, company name, address, country, UCC ID (Uniform Code Council identification number), and whether they are a national or regional processor. Distributors who choose to register on the USDA Food and Commodity Connection Web site provide the following information: the registrant's name, position, e-mail address, telephone number, company name, address, country, UCC ID (Uniform Code Council identification number), and whether they are a national or regional distributor. Brokers who choose to register on the USDA Food and Commodity Connection Web site provide the following information: the registrant's name, position, e-mail address, telephone number, brokerage company name, address, country, and whether they are a national or regional broker. Information provided by institutional food service professionals assists producers, distributors, and brokers in locating potential customers. Producer's and distributor's food service product and contact information is available to the institutional food service professionals to assist them in locating producers and distributors that handle the food products that they want to use. The information provided by brokers enables institutional food service professionals to know which manufacturers the broker represents, the States which that broker serves, and contacts at the brokerage firm. All registrants on the USDA Food and Commodity Connection Web site choose their own user ID and password.

The total burden for the proposed information collection for the USDA Food and Commodity Connection Web site is as follows:

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.26 hours per response.

Respondents: Institutional food service professionals (public and private schools, the military, Veterans Administration facilities, Native American facilities, health care facilities, colleges and universities, prisons, child care facilities, and facilities for needy families), processors, distributors, and brokers.

Estimated Number of Respondents: 800 (300 institutional food service professionals, 300 processors, 100 distributors, and 100 brokers).

Estimated Number of Responses: 15,200.

Estimated Number of Responses per Respondent: 19.

Estimated Total Annual Burden on Respondents: 3,942 hours.

For each new registration submission, the proposed request for approval of

new information collections on the USDA Food and Commodity Connection Web site is as follows:

Institutional Food Service Professional registration submission. Institutional food service professionals (public and private schools, the military, Veterans Administration facilities, Native American facilities, health care facilities, colleges and universities, prisons, child care facilities and facilities for needy families) use this registration submission to create their user profile.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 7 minutes per response.

Respondents: Institutional food service professionals (public and private schools, the military, Veterans Administration facilities, Native American facilities, health care facilities, colleges and universities, prisons, child care facilities and facilities for needy families).

Estimated Number of Respondents: 300.

Estimated Number of Responses: 300.

Estimated Number of Responses per Respondent: Respondents only complete the registration once.

Estimated Total Annual Burden on Respondents: 33 hours.

Processors registration submission. Processors use this registration submission to register their companies.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 9 minutes per response.

Respondents: Processors.

Estimated Number of Respondents: 300.

Estimated Number of Responses: 300.

Estimated Number of Responses per Respondent: Respondents only complete the registration once.

Estimated Total Annual Burden on Respondents: 45 hours.

Processors Add a Plant and Request an Audit registration submission. Processors use this submission to register the plants in which they manufacture their products.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 8 minutes per response.

Respondents: Processors.

Estimated Number of Respondents: 300.

Estimated Number of Responses: 300.

Estimated Number of Responses per Respondent: Each respondent completes this submission once for each plant they register.

Estimated Total Annual Burden on Respondents: 41 hours.

Processors Add a New Product registration submission. Processors use this registration submission to register information about their products manufactured from USDA supplied commodities and their commercial food products. Processors may include additional product information including but not limited to: ingredients, product description, preparation and cooking instructions, nutrients, package and packaging data, and product fact sheet link.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 16 minutes per response.

Respondents: Processors.

Estimated Number of Respondents: 300.

Estimated Number of Responses: 3,000.

Estimated Number of Responses per Respondent: 10. Each respondent completes this submission once for each product they register.

Estimated Total Annual Burden on Respondents: 810 hours.

Distributors registration submission. Distributors use this registration submission to register their food service distribution companies.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 9 minutes per response.

Respondents: Distributors.

Estimated Number of Respondents: 100.

Estimated Number of Responses: 100.

Estimated Number of Responses per Respondent: Respondents only complete the registration once.

Estimated Total Annual Burden on Respondents: 15 hours.

Distributors Add a Warehouse and Request an Audit registration submission. Distributors use this submission to register the warehouses in which they store the products they list.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 8 minutes per response.

Respondents: Distributors.

Estimated Number of Respondents: 100.

Estimated Number of Responses: 100.

Estimated Number of Responses per Respondent: Each respondent completes this submission once for each plant they register.

Estimated Total Annual Burden on Respondents: 14 hours.

Distributors Add a New Product registration submission. Distributors use this registration submission to register information about their products manufactured from USDA supplied commodities and their commercial food products. Distributors may include additional product information including but not limited to: ingredients, product description, preparation and cooking instructions, nutrients, package and packaging data, and product fact sheet link.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 16 minutes per response.

Respondents: Distributors.

Estimated Number of Respondents: 100.

Estimated Number of Responses: 10,000.

Estimated Number of Responses per Respondent: 100. Each respondent completes this submission once for each product they register.

Estimated Total Annual Burden on Respondents: 2,700 hours.

Brokers registration submission. Brokers use this registration submission to register the companies they represent.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 9 minutes per response.

Respondents: Brokers.

Estimated Number of Respondents: 100.

Estimated Number of Responses: 100.

Estimated Number of Responses per Respondent: Respondents only complete the registration once.

Estimated Total Annual Burden on Respondents: 15 hours.

Brokers Add a Company registration submission. Brokers use this submission to register the processors that they represent.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 16 minutes per response.

Respondents: Brokers.

Estimated Number of Respondents: 100.

Estimated Number of Responses: 1,000.

Estimated Number of Responses per Respondent: 10. Each respondent completes this submission once for each company they represent.

Estimated Total Annual Burden on Respondents: 270 hours.

Comments are invited on: (1) 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) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the

methodology and assumptions used; (3) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Lynne E. Yedinak, Food Quality Assurance Staff, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0243, 1400 Independence Avenue, SW., Washington, DC 20250–0243, telephone: (202) 720–9939 and Fax: (202) 690–0102. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: January 29, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–2432 Filed 2–4–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Intergovernmental Advisory Committee Meeting, Northwest Forest Plan

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Intergovernmental Advisory Committee (IAC), Northwest Forest Plan (NWFP), will meet on March 10, 2004, in the Oak and Firs Conference rooms, at the Embassy Suites Hotel, located near the Portland Airport, at 7900 NE 82nd Avenue, Portland, Oregon 97220 (telephone 503–460–3000). The meeting will begin at 10 a.m. and adjourn at approximately 4:30 p.m. The purpose of the meeting in general is to continue committee discussions related to NWFP implementation. Meeting agenda items include, but are not limited to, a report from the Regional Interagency Executive Committee on potential NWFP implementation improvements, presentation of the new NWFP display map, new requirements for reporting Federal Advisory Committee Act recommendations, and progress reports for related activities of interest. The meeting is open to the public and fully accessible for people with disabilities. A 15-minute time slot is reserved for public comments at 10:15 a.m. Interpreters are available upon request at least 10 days prior to the meeting. Written comments may be submitted for the meeting record. Interested persons are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Questions regarding this meeting may be directed to Kath Collier, Management Analyst, Regional Ecosystem Office, 333 SW., First Avenue, P.O. Box 3623, Portland, OR 97208 (telephone: 503–808–2165).

Dated: January 27, 2004.

Anne Badgley,

Designated Federal Official.

[FR Doc. 04–2404 Filed 2–4–04; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Meeting

AGENCY: Notice of Resource Advisory Committee, Sundance, Wyoming, USDA, Forest Service.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Black Hills National Forests' Crook County Resource Advisory Committee will meet Tuesday, February 17th, in Sundance, Wyoming for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on February 17, begins at 6:30 p.m., at the US Forest Service, Bearlodge Ranger District office, 121 South 21st Street, Sundance, Wyoming. Agenda topics will include: Updates on previously funded projects and a review of proposals still needing action. A public forum will begin at 8:30 p.m. (MT).

FOR FURTHER INFORMATION CONTACT: Steve Kozel, Bearlodge District Ranger and Designated Federal Officer, at (307) 283–1361.

Dated: December 17, 2003.

Steve Kozel,

Bearlodge District Ranger.

[FR Doc. 04–2402 Filed 2–4–04; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Board of Directors Meeting

AGENCY: Rural Telephone Bank, USDA.

ACTION: Staff briefing for the board of directors.

Time and Date: 2 p.m., Thursday, February 12, 2004.

Place: Fountainebleau Hilton Resort, 4441 Collins Ave., Miami Beach, FL 33140, Conference Room 1.

Status: Open.

Matters To Be Discussed:

1. Fiscal Year 2003 Audit.
2. Broadband Program update.
3. Privatization discussion.
4. Administrative and other issues.

ACTION: Board of Directors meeting.

Time and Date: 9 a.m., Friday, February 13, 2004.

Place: Fountainebleau Hilton Resort, 4441 Collins Ave., Miami Beach, FL 33140, Imperial V Board Room.

Status: Open.

Matters To Be Considered: The following matters have been placed on the agenda for the Board of Directors meeting:

1. Call to order.
2. Action on Minutes of the November 14, 2003, board meeting.
3. Secretary's Report on loans approved.
4. Treasurer's Report.
5. Report on loan rescissions.
6. Discussion on Privatization Study and issuance of Request for Proposal.
7. Discussion on retirement of Class A stock.
8. Governor's Remarks.
9. Adjournment.

FOR FURTHER INFORMATION CONTACT: Roberta D. Purcell, Assistant Governor, Rural Telephone Bank, (202) 720–9554.

Dated: February 2, 2004.

Hilda Legg,

Governor, Rural Telephone Bank.

[FR Doc. 04–2557 Filed 2–2–04; 4:59 pm]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 040127025–4025–01]

Privacy Impact Assessments

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice.

SUMMARY: Consistent with the objectives of the E-Government Act and to ensure the continued trust of our constituency, on February 3, 2004, the Census Bureau

is releasing to the public twenty (20) Privacy Impact Assessments (PIAs).

DATES: The Census Bureau makes its 20 PIAs available to the public on February 3, 2004.

ADDRESSES: Direct all written comments to the Director, U.S. Census Bureau, Room 2049–0100, Federal Building 3, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: Jared Gerstenbluth, Policy Office, on (301) 763–2654 or by e-mail at *Jared.Gerstenbluth@census.gov.* Please visit *http://www.census.gov/po/pia* to obtain additional information and to obtain copies of the Census Bureau's PIAs.

SUPPLEMENTARY INFORMATION: The Census Bureau's 20 PIAs were submitted during the fiscal year 2005 budget process. The PIAs cover privacy, confidentiality, security, and data access and dissemination issues.

PIAs are designed to help us carry-out our mission and to help us meet our legal requirements. Our mission is to collect high-quality data and our legal requirement is to protect the confidentiality of identifiable data. The Census Bureau PIAs do this by assessing programs against the Data Stewardship program, Privacy Principles, and supporting policies.

The purpose of PIAs is to ensure that no collection, storage, access, use, or dissemination of identifiable personal information occurs without proof of need and purpose and to ensure that appropriate security procedures and controls on the use of the data are in place. The PIAs offered the Census Bureau an opportunity to affirm that it is using its legal and policy protections to ensure that data are being collected and used in a manner that honors privacy and protects confidentiality while producing the highest quality statistical data products for the Nation.

A full PIA was conducted on each program that contains, at some point in the collection and processing activities, Personally Identifiable Information (PII), Identifiable Business Information (IBI), or both. Identifiable information is defined as information that actually identifies people or businesses. Examples of PII include name, address, or social security number. Examples of IBI include employer identification number or e-mail address.

The following is a list of the PIAs that will be made publically available as of February 3, 2004:

1. American Community Survey.
2. Import and Export Statistics (Automated Export System).
3. Building Permits Programs.
4. Center for Economic Studies.
5. Continuity of Data Processing Operations and Data Security.
6. Mandatory Economic Surveys.
7. Data Access and Dissemination Systems.
8. Data Processing Update Systems.
9. Decennial 2010.
10. Demographic Surveys Program.
11. Economic Census.
12. Exporter Database.
13. Field Support Systems.
14. Geographic Support Systems.
15. Governments Programs.
16. Longitudinal Employer Household Dynamics Program.
17. Master Address File/Topologically Integrated Geographic Encoding and Referencing system (MAF/TIGER) Enhancements Program.
18. Survey of Business Owners.
19. Vehicle Inventory and Use Survey.
20. Voluntary Economic Surveys.

For more detailed information and to obtain a copy of any or all of the Census Bureau PIAs, please visit *http://www.census.gov/po/pia*. The PIAs will be available via mail, e-mail, or facsimile based on the requester's preference.

Dated: February 2, 2004.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. 04–2538 Filed 2–4–04; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-507–502]

Certain In-Shell Raw Pistachios From Iran: Extension of Time Limit for Preliminary Results of Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limits.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the 2002–2003 administrative review of the antidumping duty order on pistachios from Iran. This review covers one exporter of the subject merchandise to the United States and the period July 01, 2002 through June 30, 2003.

EFFECTIVE DATE: February 5, 2004.

FOR FURTHER INFORMATION CONTACT: Phyllis Hall at (202) 482–1398 or Donna Kinsella at (202) 482–0194, Antidumping and Countervailing Duty Enforcement Group III, Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On August 22, 2003, in response to requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates, we published a notice of initiation of this administrative review in the Federal Register. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 50750. This review involves one exporter, Tehran Negah Nima Trading Company.

Pursuant to the time limits for administrative reviews set forth in section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Tariff Act), the current deadlines are April 1, 2004 for the preliminary results and July 30, 2004 for the final results. It is not practicable to complete this review within the normal statutory time limit due to the complexity of gathering information for constructed value (CV) and CV profit in Iran. Therefore, the Department is extending the time limit for completion of the preliminary results until July 30, 2004 in accordance with section 751(a)(3)(A) of the Tariff Act. The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

This extension is in accordance with section 751(a)(3)(A) of the Tariff Act (19 U.S.C. 1675 (a)(3)(A) (2003)).

Dated: January 30, 2004.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 04–2525 Filed 2–4–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201–832, A-489–812]

Light-Walled Rectangular Pipe and Tube from Mexico and Turkey: Notice of Postponement of Preliminary Antidumping Duty Determinations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of preliminary antidumping duty determinations in antidumping investigations.

EFFECTIVE DATE: February 5, 2004.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor and Mark Manning at (202) 482–5831, (202) 482–5253, respectively; Office 4, Group 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUMMARY: The Department of Commerce (the Department) is postponing the preliminary determinations in the antidumping investigations on light-walled rectangular pipe and tube from Mexico and Turkey from February 16, 2004, until April 6, 2004. This postponement is made pursuant to section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the Act).

SUPPLEMENTARY INFORMATION:

Background

On September 29, 2003, the Department initiated the above-referenced investigations. See Notice of Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from Mexico and Turkey, 68 FR 57667 (October 6, 2003).

Postponement of Preliminary Determination

Currently, the preliminary determinations are due no later than February 16, 2004. Under section 733(c)(1)(B) of the Act, the Department can extend the period for reaching a preliminary determination until not later than the 190th day after the date on which the administering authority initiates an investigation if:

(B) The administering authority concludes that the parties concerned are cooperating and determines that
  (i) the case is extraordinarily complicated by reason of
    (I) the number and complexity of the transactions to be investigated or adjustments to be considered;
    (II) the novelty of the issues presented; or
    (III) the number of firms whose activities must be investigated; and
  (ii) additional time is necessary to make the preliminary determination.

The parties concerned are cooperating in these investigations. Additional time is necessary, however, to complete the preliminary determinations for Mexico and Turkey due to (1) the number and complexity of the transactions to be investigated and adjustments to be considered, (2) certain affiliation issues in both cases involving multiple respondents, and (3) the novelty of issues presented. Moreover, with respect to each Mexican respondent, the Department received, on January 9, 2004, allegations that sales were made below the cost of production during the period of investigation. We are currently reviewing these allegations. Therefore, for both investigations, additional time is required to review the issues and the cost information for purposes of the preliminary determinations.

Pursuant to section 733(c)(1)(B) of the Act, we have determined that these investigations are ''extraordinarily complicated.'' We are, therefore, postponing the preliminary determinations by 50 days to April 6, 2004.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(2).

Dated: January 28, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–2521 Filed 2–4–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–829]

Stainless Steel Bar from Italy: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on stainless steel bar from Italy. The period of review is August 2, 2001, through February 28, 2003. This review covers imports of stainless steel bar from two producers/exporters.

We have preliminarily found that sales of subject merchandise have been made below normal value. If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection to assess antidumping duties.

We invite interested parties to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: February 5, 2004.

FOR FURTHER INFORMATION CONTACT: Blanche Ziv, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–4207.

Background

On March 7, 2002, the Department of Commerce (''the Department'') published an antidumping duty order on stainless steel bar from Italy. *See Notice of Antidumping Duty Order: Stainless Steel Bar from Italy*, 67 FR 10384 (March 7, 2002). On October 10, 2003, the Department published an amended antidumping duty order on stainless steel bar from Italy. *See Notice of Amended Antidumping Duty Orders: Stainless Steel Bar from France, Germany, Italy, Korea, and the United Kingdom*, 68 FR 58660 (October 10, 2003).

On March 3, 2003, the Department published in the **Federal Register** an *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, (68 FR 9974). On March 26, in accordance with 19 CFR 351.213(b), the Department received timely requests for administrative reviews of this order from two producers/exporters of the subject merchandise, Foroni S.p.A (''Foroni'') and Cogne Acciai Speciali S.r.l. (''Cogne''), respectively. On March 31, 2003, Carpenter Technology Corp., Crucible Specialty Metals Division of Crucible Materials Corp., Electralloy Corp., Slater Steels Corp., Empire Specialty Steel and the United Steelworkers of America (AFL-CIO/CLC) (collectively, ''petitioners'') requested an administrative review for Foroni and Ugine Savoie-Imphy S.A (''Ugine''). On April 14, 2003, Cogne withdrew its request for an administrative review.

In accordance with 19 CFR 351.221(b)(1), we published a notice of initiation of this antidumping duty administrative review on April 21, 2003. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 68 FR 19498 (April 21, 2003). The period of this review (''POR'') is August 2, 2001, through February 28, 2003.

Antidumping duty questionnaires were sent to Foroni and Ugine on May 7, 2003. We received timely responses from Foroni on June 12 and July 8, 2003. Ugine did not file a response to our questionnaire (*see* ''Facts Available'' section below for further details). We issued supplemental questionnaires to Foroni on September 11 and October 6, 2003. We received responses from Foroni on September 30 and October 21, 2003, respectively.

On October 28, 2003, in accordance with section 751(a)(3)(A) of the Act, we published a notice extending the time limit for the completion of the preliminary results in this case by 60 days (*i.e.*, until no later than January 30, 2004). *See Stainless Steel Bar from Germany and Italy: Notice of Extension of Time Limit for 2001–2003*

Administrative Reviews, 68 FR 61398 (October 28, 2003).

In November 2003, we conducted verification of the cost of production/constructed value questionnaire responses submitted by Foroni. We issued a verification report on December 23, 2003. *See* ''Verification'' section of this notice for further discussion.

SUPPLEMENTARY INFORMATION:

Scope of the Order

For the purposes of this order, the term ''stainless steel bar'' includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this order is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Facts Otherwise Available

Section 776(a)(2) of the Act provides that the Department shall apply ''facts otherwise available'' if, *inter alia*, a respondent (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of Section 782; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified.

Section 782(e) of the Act further provides that the Department shall not decline to consider information that is submitted by an interested party and that is necessary to the determination but does not meet all the applicable requirements established by the Department if (1) the information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information; and (5) the information can be used without undue difficulties.

On May 7, 2003, the Department issued the antidumping duty questionnaire to Ugine. The first page of the questionnaire established a due date of June 13, 2003, for Ugine's response. In addition, the cover letter to the questionnaire instructed Ugine to formally request an extension of time in writing before the due date if it was unable to respond to the questionnaire within the specified time limit. On June 25, 2003, the Department contacted Ugine to reiterate that the deadline for formally filing a response or extension request was June 13, 2003. Ugine stated that it would not be responding to the questionnaire. *See* the June 25, 2003 memorandum to the file, ''Respondent Participation - Ugine Savoie-Imphy S.A'' which is on file in the Department's Central Records Unit (''CRU''), Room B–099.

The Department has not received any other communication from Ugine relating to this administrative review. Ugine did not request an extension of time to respond to the Department's questionnaires prior to the June 13, 2003 response deadline nor did Ugine, at any time, inform the Department that it was having difficulties submitting the requested information. (*See* section 782(c) of the Act.)

In applying facts otherwise available, section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (August 30, 2002). Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, at 870 (1994) (''*SAA*''). In this case, Ugine has failed to cooperate to the best of its ability by not responding to the Department's antidumping questionnaires. Therefore, the Department preliminarily finds that in selecting from among the facts otherwise available, an adverse inference is warranted. *See, e.g., Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985, 42986 (July 12, 2000) (the Department applied total adverse facts available where the respondent failed to respond to the antidumping questionnaires).

As adverse facts available, we have assigned Ugine a margin of 33.00 percent, the highest margin from any segment of the proceeding, which is also the highest margin alleged in the petition, in accordance with section 776(b)(1). Section 776(b) of the Act notes that an adverse facts available rate may include reliance on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review; or (4) any other information placed on the record. Thus, the statute does not limit the specific sources from which the Department may obtain information for use as facts available. The *SAA* recognizes the importance of facts available as an investigative tool in antidumping proceedings. The Department's potential use of facts available provides the only incentive to foreign exporters and producers to respond to the Department's questionnaires. *See SAA* at 868.

Section 776(c) of the Act mandates that the Department, to the extent practicable, shall corroborate secondary information (such as petition data) using independent sources reasonably at its disposal. In accordance with the law, the Department, to the extent practicable, will examine the reliability and relevance of the information used.

To corroborate the selected margin from the petition, we compared it to individual transaction margins in this administrative review. We found that the selected margin falls within the range of individual transaction margins.

This evidence supports the reliability of this margin and an inference that the selected rate might reflect Ugine's actual dumping margin.

With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)). Therefore, we also examined whether any information on the record would discredit the selected rate as reasonable facts available for Ugine. No such information exists. In particular, there is no information that might lead to a conclusion that a different rate would be more appropriate.

Finally, we note that another Italian exporter of stainless steel bar to the United States, Cogne, is currently subject to the 33.00 percent rate because it failed to respond to the Department's request for information in the *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Italy*, 67 FR 3155 (January 23, 2002) (''LTFV Final'').

Accordingly, we have assigned Ugine, in this administrative review, the rate of 33.00 percent as total adverse facts available. This is consistent with section 776(b) of the Act which states that adverse inferences may include reliance on information derived from the petition.

Verification

As provided in section 782(i) of the Act, in November 2003, we verified information provided by Foroni using standard verification procedures, including on-site inspection of the manufacturer's facilities, examination of relevant sales, cost and financial records, and selection of original documentation containing relevant information. The Department reported its findings from the cost verification on December 23, 2003. *See* Memorandum to the File, ''*Verification Report on the Cost of Production and Constructed Value Data Submitted by Foroni S.p.A.*,'' dated December 23, 2003 (''*Foroni Verification Report*''), which is on file in the CRU.

Fair Value Comparisons

To determine whether sales of stainless steel bar by Foroni to the United States were made at less than NV, we compared, as appropriate, constructed export price (''CEP''), to NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the CEPs of individual U.S. transactions to the weighted-average NV of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the ''Normal Value'' section below.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent covered by the description in the ''Scope of the Order'' section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. In accordance with section 773(a)(1)(C)(ii) of the Act, in order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. (For further details, *see* the ''Normal Value'' section, below.)

We compared U.S. sales to sales made in the comparison market within the contemporaneous window period, which extends from three months prior to the POR until two months after the POR. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the comparison market to compare to U.S. sales, we compared U.S. sales to constructed value (''CV''). In making product comparisons, consistent with the *LTFV Final*, we matched foreign like products based on the physical characteristics reported by the respondent in the following order: general type of finish; grade; remelting process; type of final finishing operation; shape; and size.

Constructed Export Price

We calculated CEP, in accordance with subsection 772(b) of the Act, for those sales from the respondent's U.S. subsidiary to the first unaffiliated purchaser, which took place after importation into the United States. We based CEP on the FOB warehouse price to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. We deducted from the starting price foreign inland freight, international freight, marine insurance, foreign inland insurance, brokerage and handling, U.S. inland freight, U.S. customs duties, and other transportation expenses. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (commissions and credit expenses), U.S. inventory carrying costs, and indirect selling expenses. In accordance with section 772(d)(3) of the Act, we deducted from the starting price an amount for profit.

Normal Value

A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, whether the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Foroni's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with 19 CFR 351.404(b)(2). Because Foroni's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable.

B. Cost of Production

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Foroni's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (''G&A''), and interest expenses, where appropriate. We relied on the COP information provided by Foroni in its questionnaire responses except in the following instances. For certain CONNUMs not included in Foroni's revised COP/CV data submission, dated October 21,

2003, we assigned the COP of the next most similar CONNUM. The assigned CONNUMs were identical in all physical characteristics other than size. For certain CONNUMs also excluded from Foroni's revised COP/CV data submission that differed from the reported, revised CONNUMs with respect to grade, we assigned costs to those products using record information verified by the Department during verification. We adjusted Foroni's reported POR direct material costs to reflect the variance between Foroni's total standard and actual direct material costs for FY 2002. We increased Foroni's reported variable expenses for the variance between standard and actual variable costs for the POR. We revised the denominator of Foroni's G&A expenses ratio to reflect the cost of goods sold rather than the cost of goods manufactured. We increased Foroni's interest expenses to include all foreign exchange gains and losses. *See* Memorandum from LaVonne Clark to Neal Halper, Director, Office of Accounting, ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results'' dated January 30, 2004 (''Preliminary Results COP Memo'').

2. Test of Home Market Prices

On a product-specific basis, we compared the weighted-average COPs to home market sales of the foreign like product during the POR, as required under section 773(b) of the Act, in order to determine whether sales had been made at prices below the COP. The prices were exclusive of any applicable movement charges, billing adjustments, commissions, and indirect selling expenses. In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which did not permit the recovery of costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(1) of the Act, where less than 20 percent of a respondent's sales of a given product are made at prices below the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we determine that in such instances the below-cost sales represent ''substantial quantities'' within an extended period of time in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales are made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that for Foroni, for certain specific products, more than 20 percent of the comparison market sales were at prices less than the COP and, thus, the below-cost sales were made within an extended period of time in substantial quantities. In addition, these sales were made at prices that did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 772(b)(1).

For U.S. sales of subject merchandise for which there were no comparable home market sales in the ordinary course of trade (*e.g.*, sales that passed the costs test), we compared those sales to constructed value (''CV''), in accordance with section 773(a)(4) of the Act.

C. Calculation of Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, when sales of comparison products could not be found, either because there were no sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on CV.

In accordance with section 773(e)(1) and (e)(2)(A) of the Act, we calculated CV based on the sum of the cost of materials and fabrication for the subject merchandise, plus amounts for selling expenses, G&A, including interest, and profit. We made the same adjustments to the CV costs as described in the ''Calculation of COP'' section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based selling expenses, G&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country.

D. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (''LOT'') as the CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.; see also, Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the ''chain of distribution''),[1] including selling functions,[2] class of customer (''customer category''), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for CEP and comparison market sales, (*i.e.*, NV based on either home market or third country prices[3]) we consider only the selling expenses reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if a NV LOT is more remote from the factory than the CEP LOT and we are unable to make a level of trade adjustment, the Department shall grant a CEP offset, as provided in section 773(a))(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

Foroni reported that it made direct sales to distributors, machine shops and forging shops in the home market. We found that the sales to each customer

[1] The marketing process in the United States and home market begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain.

[2] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of these preliminary results, we have organized the common selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

[3] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

category were similar with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service. We therefore, preliminarily determine that these home market sales constitute a single level of trade.

In the U.S. market, Foroni only reported CEP sales. Foroni's constructed CEP level of trade was its sales to its affiliated reseller, and since it performed the same selling functions for these sales, we found that these CEP sales constitute one level of trade. This CEP level of trade was similar to that of the home market with respect to sales process, warehouse/inventory maintenance and warranty service, and differed only slightly with respect to freight and delivery. Since we found the CEP LOT to be similar to the home market level of trade, we matched CEP sales to normal value based on home market sales and made no CEP offset adjustment. *See* section 773(a)(7)(A) of the Act.

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on the FOB mill price to unaffiliated customers in the home market. We identified the starting price and made adjustments for early payment discounts. We also made adjustments, where appropriate, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the home market or United States where commissions were granted on sales in one market but not in the other (the commission offset).

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. In addition, we made adjustments for differences in circumstances of sale (''COS'') in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made COS adjustments, where appropriate, by deducting direct selling expenses incurred on comparison market sales (credit expenses), and adding U.S. direct selling expenses (credit expenses and commissions).

F. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, for Foroni, when comparison market sales could not be found because there were no sales in the ordinary course of trade of a comparable product, we based NV on CV.

In accordance with sections 773(e)(1), (e)(2)(A), and (e)(3) of the Act, we calculated CV based on the sum of the cost of materials and fabrication for the merchandise, plus amounts for selling expenses, G&A (including interest), and profit. We calculated the cost of materials and fabrication based on the methodology described in the ''Calculation of COP'' section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based selling expenses, G&A, and profit on the amounts incurred and realized by Foroni in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For a discussion of the calculation of G&A and interest expense ratios for Foroni, *see Preliminary Results COP Memo*.

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. Where we compared CV to CEP, we made circumstance-of-sale adjustments by deducting from CV the weighted-average home market direct selling expenses.

Preliminary Results of the Review

We preliminarily find that the following dumping margins exist for the period August 2, 2001, through February 28, 2003:

Exporter/manufacturer	Weighted-average margin percentage
Foroni S.p.A and Foroni Metals of Texas	3.72
Ugine Savoie-Imphy S.A	33.00

Assessment Rates

Upon completion of this administrative review, the Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative review, if any importer (or customer)-specific assessment rates calculated in the final results are above *de minimis* (*i.e.*, at or above 0.5 percent), the Department will issue appraisement instructions directly to CBP to assess antidumping duties on appropriate entries. To determine whether the duty assessment rates covering the period were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(1), we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to that importer (or customer) and dividing this amount by the entered value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, we apply the assessment rate to the entered value of the importer's/customer's entries during the review period. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of stainless steel bar from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be the rates established in the final results of this administrative review (except no cash deposit will be required if its weighted-average margin is *de minimis*, *i.e.*, less than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value investigation, the cash deposit will continue to be the most recent rate published in the final determination for which the manufacturer or exporter received an individual rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, the cash deposit rate will be 3.81 percent, the ''all others'' rate established in the *LTFV Final*.

Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held 37 days after the publication of this notice, or the first workday thereafter. Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included. The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or hearing, within 120 days of publication of these preliminary results.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 29, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–2527 Filed 2–4–04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–830]

Stainless Steel Bar From Germany: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on stainless steel bar from Germany. The period of review is August 2, 2001, through February 28, 2003. This review covers imports of stainless steel bar from one producer/exporter.

We have preliminarily found that sales of subject merchandise have not been made at less than normal value. If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (''CBP'') to liquidate entries of stainless steel bar from BGH Edelstahl Freital GmbH, BGH Edelstahl Lippendorf GmbH, BGH Edelstahl Lugau GmbH, and BGH Edelstahl Siegen GmbH without regard to antidumping duties.

We invite interested parties to comment on these preliminary results. We will issue the final results not later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: February 5, 2004.

FOR FURTHER INFORMATION CONTACT: Andrew Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1276.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 2002, the Department of Commerce (''the Department'') published an antidumping duty order on stainless steel bar from Germany. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Bar from Germany,* 67 FR 10382 (March 7, 2002). On October 10, 2003, the Department published an amended antidumping duty order on stainless steel bar from Germany. *See Notice of Amended Antidumping Duty Orders: Stainless Steel Bar from France, Germany, Italy, Korea, and the United Kingdom,* 68 FR 58660 (October 10, 2003).

On March 3, 2003, the Department published in the **Federal Register** an *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 68 FR 9974 (March 3, 2003). On March 27, in accordance with 19 CFR 351.213(b), the Department received a timely request for review from BGH Edelstahl Freital GmbH, BGH Edelstahl Lippendorf GmbH, BGH Edelstahl Lugau GmbH, and BGH Edelstahl Siegen GmbH (collectively ''BGH''), four affiliated German producers of the subject merchandise.

In accordance with 19 CFR 351.221(b)(1), we published a notice of initiation of this antidumping duty administrative review on April 21, 2003. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 68 FR 19498 (April 21, 2003). The period of review (''POR'') is August 2, 2001 through February 28, 2003.

An antidumping duty questionnaire was sent to BGH on May 7, 2003. We received a timely response from BGH on June 13, 2003. We issued supplemental questionnaires to BGH on August 22, September 3, September 24, and September 29, 2003. We received responses from BGH on September 22, September 26, October 3, and October 8, 2003.

On June 2, 2003, BGH requested that it be relieved from the requirement to report affiliated party resales because sales of the foreign like product to affiliated parties during the POR constituted less than five percent of total sales of the foreign like product. On June 11, 2003, we granted BGH's request in accordance with 19 CFR 351.403(d). *See* Memorandum to Jeffrey May, ''Reporting of BGH's Home Market Sales by an Affiliated Party,'' dated June 11, 2003 which is in the Department's Central Records Unit, located in Room B–099 of the main Department building (''CRU'').

On October 28, 2003, in accordance with 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), we published a notice extending the time limit for the completion of the preliminary results in this case by 60 days (*i.e.,* until no later than January 30, 2004). *See Stainless Steel Bar from Germany and Italy: Notice of Extension of Time Limit for 2001–2003 Administrative Reviews,* 68 FR 61398 (October 28, 2003).

On October 28 through November 6, and December 10–11, 2003, we conducted verifications of the questionnaire responses submitted by BGH. We issued a verification report on January 20, 2004. *See* ''Verification'' section of this notice for further discussion.

Scope of the Order

For the purposes of this order, the term ''stainless steel bar'' includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths,

whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this review is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Verification

As provided in section 782(i) of the Act, on October 28 through November 6, and December 10–11, 2003, we verified information provided by BGH using standard verification procedures, including on-site inspection of the manufacturers' facilities; examination of relevant sales, cost and financial records; and selection of original documentation containing relevant information. The Department reported its verification findings on January 20, 2004. *See* Memorandum to John Brinkmann, *''Verification of the Responses of BGH Group, Inc. in the First (1st) Antidumping Administrative Review of Stainless Steel Bar from Germany,''* dated January 20, 2004, which is in the CRU.

Fair Value Comparisons

To determine whether sales of stainless steel bar by BGH to the United States were made at less than normal value (''NV''), we compared the export price (''EP'') to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below.

Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual U.S. transactions to the weighted-average NV of the foreign like product, where there were sales made in the ordinary course of trade, as discussed in the ''Normal Value'' section of this notice.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by BGH covered by the description in the ''Scope of the Order'' section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. In accordance with section 773(a)(1)(C)(ii) of the Act, in order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared BGH's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. (For further details, *see* the ''Normal Value'' section of this notice.)

We compared U.S. sales to sales made in the comparison market within the contemporaneous window period, which extends from three months prior to the POR until two months after the POR. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making product comparisons, consistent with the *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Germany,* 67 FR 3159 (January 23, 2002) and *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Bar from Germany,* 67 FR 10382 (March 7, 2002) (collectively ''*LTFV Final*''), we matched foreign like products based on the physical characteristics reported by BGH in the following order: general type of finish; grade; remelting process; type of final finishing operation; shape; and size.

Export Price

We calculated EP in accordance with section 772(a) of the Act because the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States and because constructed export price methodology was not otherwise warranted. We based EP on the packed ex-works or delivered price to unaffiliated purchasers in the United States. We identified the correct starting price by accounting for billing adjustments and early payment discounts. We also made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These deductions included foreign inland freight, international freight, marine insurance, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), and U.S. inland freight.

Normal Value

A. Home Market Viability

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, whether the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared BGH's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with 19 CFR 351.404(b)(2) of the Department's regulations. Because BGH's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable.

B. Affiliated-Party Transactions and Arm's-Length Test

The Department's practice with respect to the use of home market sales to affiliated parties for NV is to determine whether such sales are at arm's-length prices. BGH made sales in the home market to affiliated and unaffiliated customers. To test whether the sales to affiliates were made at arm's-length prices, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts, and packing. Where the price to the affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade,* 67 FR 69186 (November 15, 2002). In accordance with the Department's practice, we only included in our margin analysis those sales to affiliated parties that were made at arm's length.

C. Cost of Production

Because we disregarded sales below the cost of production (''COP'') in the

investigation (*see LTFV Final*), we had reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we requested that BGH respond to section D, the cost of production/constructed value section of the questionnaire.

We conducted the COP analysis described below.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of BGH's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (''G&A''), interest expenses, and home market packing costs. We relied on the COP information provided by BGH, except in the following instances.

BGH reported its G&A and interest expenses on a weighted average basis for the years 2001 and 2002. We recalculated BGH's G&A and interest expense ratios using data only from BGH's fiscal year 2002. *See Canned Pineapple Fruit from Thailand: Notice of Final Results of Antidumping Duty Administrative Review, Rescission of Administrative Review in Part, and Final Determination to Not Revoke Order in Part,* 68 FR 65247 (November 19, 2003) and accompanying Issues and Decision Memorandum at Comment 12. Consistent with the *LTFV Final,* we also recalculated BGH's G&A ratio by excluding its parent companies' cost of goods sold from the calculation of the G&A expense ratio.

We also recalculated BGH's interest expense ratio by including all of BGH's consolidated exchange gains and losses on foreign currency in the calculation of the interest expense ratio. *See Stainless Steel Bar from India; Final Results of Antidumping Duty Administrative Review,* 68 FR 47543 (August 11, 2003) and accompanying Issues and Decision Memorandum at Comment 19.

For further explanation about these adjustments *see* Memorandum from Case Analyst to File, ''Preliminary Results Calculation Memorandum for BGH Group, Inc.,'' dated January 30, 2004, located in the Department's CRU.

2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product during the POR, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, billing adjustments, commissions, discounts, rebates, interest revenue and indirect selling expenses. In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) of the Act, whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which did not permit the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(1) of the Act, where less than 20 percent of the respondent's sales of a given product are made at prices below the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we determine that in such instances the below cost sales represent ''substantial quantities'' within an extended period of time in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales are made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of the comparison market sales were at prices less than the COP and, thus, the below-cost sales were made within an extended period of time in substantial quantities. In addition, these sales were made at prices that did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 772(b)(1).

D. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (''LOT'') as the EP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; *see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the ''chain of distribution''),[1] including selling functions,[2] class of customer (''customer category''), and the level of selling expenses for each sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (*i.e.,* NV based on either home market or third country prices [3]), we consider the starting prices before any adjustments.

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP sales at a different LOT in the comparison market, where available data make it practical, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

We examined the chain of distribution and the selling activities associated with sales reported by BGH to its four channels of distribution in the home market, and where appropriate, to distinct customer categories within these channels. We found that distribution channels 1, 2, and 3, were similar with respect to sales process, freight services, and warranty service and, therefore, constituted a distinct level of trade (LOTH 1). We found that distribution channel 4 constituted a distinct level of trade (LOTH 2) because sales in this channel were made from warehouse inventory and encompassed services similar to those of a ''service center.'' We also found that LOTH 2 differed significantly from LOTH 1 with respect to sales process. Based upon our overall analysis in the home market, we found that LOTH 1 and LOTH 2 constituted two different levels of trade.

BGH reported EP sales through two channels of distribution, produce-to-order sales to distributors (channel 1)

[1] The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondents' sales occur somewhere along this chain.

[2] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of these preliminary results, we have organized the common selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

[3] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

and warehouse inventory sales to distributors (channel 3). We examined the chain of distribution and the selling activities associated with sales through these channels and found them to be similar with respect to sales process, freight services, and warranty service. Therefore, we determine that the two EP channels of distribution constitute a single level of trade (LOTU 1).

The EP level of trade differed considerably from LOTH 2 with respect to sales process and warehousing/inventory maintenance. However, the EP level of trade was similar to LOTH 1 with respect to sales process, freight services, warehouse/inventory maintenance and warranty service. Consequently, we matched the EP sales to sales at the same level of trade in the home market (LOTH 1). Where no matches at the same level of trade were possible, we matched to sales in LOTH 2 and we made a level of trade adjustment. *See* section 773(a)(7)(A) of the Act.

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on the ex-works or delivered price to unaffiliated customers or prices to affiliated customer that we determined to be at arm's length. We identified the correct starting price by accounting for billing adjustments, early payment discounts, other discounts, rebates, and interest revenue. In accordance with section 773(a)(6)(B)(ii) of the Act, we made deductions for inland freight and inland insurance. We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the home market or on U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset).

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. In addition, where appropriate, we made adjustments for differences in circumstances of sale (''COS'') in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 by deducting direct selling expenses incurred on comparison market sales (credit expenses), and adding U.S. direct selling expenses (credit expenses and commissions). Where payment dates were unreported we recalculated the credit expenses using the date of the preliminary determination in place of actual date of payment. We deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

Finally, where appropriate, we made an adjustment for differences in LOT under section 773(a)(7)(A) of the Act and 19 CFR 351.412(b)–(e).

Preliminary Results of the Review

We preliminarily find that the following dumping margin exists for the period August 2, 2001, through February 28, 2003.

Manufacturer/exporter	Margin
BGH	0.43

Assessment Rates

Upon completion of this administrative review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative review, if any importer (or customer)-specific assessment rates calculated in the final results are above *de minimis* (*i.e.*, at or above 0.5 percent), the Department will issue appraisement instructions directly to CBP to assess antidumping duties on appropriate entries. To determine whether the duty assessment rates covering the period were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(1), we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to that importer (or customer) and dividing this amount by the entered value of the sales to that importer (or customer). Where an importer (customer)-specific *ad valorem* rate is greater than *de minimis* and the entered value is available, we apply the assessment rate to the entered value of the importer's/customer's entries during the POR. Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, and the entered value is not available, we calculated a per unit assessment rate by aggregating the dumping margins calculated for U.S. sales to that importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).

The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review.

Cash Deposit Rates

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of stainless steel bar from Germany entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed company will be the rate established in the final results of this administrative review (except no cash deposit will be required if its weighted-average margin is *de minimis*, *i.e.*, less than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the *LTFV Final* investigation, the cash deposit will continue to be the most recent rate published in the final determination for which the manufacturer or exporter received an individual rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, the cash deposit rate will be 16.96 percent, the ''all others'' rates established in the *LTFV Final*.

Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. A hearing, if requested, will be 37 days after the publication of this notice, or the first business day thereafter. Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or hearing, within 120 days of publication of these preliminary results.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the

relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 29, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–2528 Filed 2–4–04; 8:45 am]

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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: February 5, 2004.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3207.

BACKGROUND:

On July 2, 2003, 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*, 68 FR 39511 (July 2, 2003). On July 24, 2003, Chia Far Industrial Factory Co. Ltd.(''Chia Far''), a Taiwanese producer of subject merchandise, requested that the Department conduct an administrative review of its sales of subject merchandise during the period of review (''POR''). On July 30, 2003, petitioners[1] requested that the Department conduct an administrative review of Chia Far, Yieh United Steel Corporation (''YUSCO''), Tung Mung Development Co., Ltd. (''Tung Mung''), Ta Chen Stainless Pipe Co., Ltd. (''Ta Chen''), China Steel Corporation, Tang Eng Iron Works, PFP Taiwan Co., Ltd., Yieh Loong Enterprise Co., Ltd., Yieh Trading Corp., Goang Jau Shing Enterprise Co., Ltd., Yieh Mau Corp., Chien Shing Stainless Co., Chain Chon Industrial Co., Ltd., and their various affiliates. On August 22, 2003, the Department published a notice of initiation of a review of SSSS from Taiwan covering the period July 1, 2002 through June 30, 2003. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 50750 (August 22, 2003). The preliminary results of review are currently due on April 1, 2004.

EXTENSION OF TIME LIMITS FOR PRELIMINARY RESULTS

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), and section 351.213(h)(2) of the Department's regulations, state that if it is not practicable to complete the review within the time specified, the administering authority may extend the 245-day period to issue its preliminary results by 120 days. Completion of the preliminary results of this review within the 245-day period is impracticable for the following reasons:

- The review involves a large number of transactions and complex adjustments;
- The responses from Chia Far and YUSCO include sales and cost information which require the Department to gather and analyze a significant amount of information pertaining to each company's sales practices, manufacturing costs and corporate relationships; and
- The review involves examining complex relationships between the producers and a large number of customers and suppliers.

Therefore, in accordance with section 751(a)(3)(A) of the Act, and section 351.213(h)(2) of the Department's regulations, we are extending the time period for issuing the preliminary results of review by 60 days from April 1, 2004 until May 31, 2004. 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: January 30, 2004.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 04–2524 Filed 2–4–04; 8:45 am]

BILLING CODE 3510–DS–S

[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

International Trade Administration

[A-580–829]

Stainless Steel Wire Rod from the Republic of Korea: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 5, 2004.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan or Crystal Scherr Crittenden, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4081 or (202) 482–0989, respectively.

TIME LIMITS:

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245-day time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On October 24, 2002, the Department published a notice of initiation of the administrative review of the antidumping duty order on stainless

steel wire rod from South Korea, covering the period September 1, 2001, through August 31, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 67 FR 65336 (October 24, 2002). The preliminary results were published on October 7, 2003. *See Stainless Steel Wire Rod from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 57879 (October 7, 2003). The final results are currently due no later than February 4, 2004.

Extension of Time Limit for Final Results of Review

We determine that it is not practicable to complete the final results of this review within the original time limit. Therefore, the Department is extending the time limit for completion of the final results by 60 days until no later than April 5, 2004. *See* Decision Memorandum from Thomas F. Futtner to Holly A. Kuga, dated concurrently with this notice, which is on file in the Central Records Unit, Room B-099 of the Department's main building.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: January 30, 2004.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 04–2526 Filed 2–4–04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–428–829, C–421–809, and C–412–821]

Preliminary Results of Countervailing Duty Administrative Reviews: Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative reviews.

SUMMARY: The Department of Commerce (the Department) is conducting administrative reviews of the countervailing duty (CVD) orders on low enriched uranium from Germany, the Netherlands, and the United Kingdom for the period May 14, 2001, through December 31, 2002. For information on the net subsidy for the reviewed companies, please see the Preliminary Results of Reviews section of this notice. Interested parties are invited to comment on these preliminary results. (*See* the ''Public Comment'' section of this notice).

EFFECTIVE DATE: February 5, 2004.

FOR FURTHER INFORMATION CONTACT: Robert Copyak (Germany) at 202–482–2209, Tipten Troidl (the Netherlands) at 202–482–1767, or Darla Brown (United Kingdom) at 202–482–2849, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 13, 2002, the Department published in the **Federal Register** the CVD orders on low enriched uranium from Germany, the Netherlands, and the United Kingdom. *See Notice of Amended Final Determinations and Notice of Countervailing Duty Orders: Low Enriched Uranium from Germany, the Netherlands and the United Kingdom,* 67 FR 6688 (February 13, 2002) (Amended Final). On February 3, 2003, the Department published a notice of opportunity to request an administrative review of these CVD orders. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 68 FR 5272 (February 3, 2003). On February 5, 2003, we received a timely request for review from the Government of the United Kingdom (UKG). On February 27, 2003, we received a timely request for review from Urenco Ltd. (Urenco), the producer and exporter of subject merchandise. We note that this request covered all subject merchandise produced by Urenco in Germany, the Netherlands, and the United Kingdom. On February 28, 2003, we received a timely request for review from petitioners.[1] On March 18, 2003, the Department initiated administrative reviews of the CVD orders on low enriched uranium from Germany, the Netherlands, and the United Kingdom. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 68 FR 14394 (March 25, 2003).

On April 4, 2003, petitioners submitted new subsidy allegations, covering the following alleged programs: the UKG's sale of an uranium enrichment plant to Urenco Capenhurst Limited (UCL) for less than adequate remuneration, the UKG's decommissioning of UCL's centrifuge plants for less than adequate remuneration, and the UKG's provision of insurance for less than adequate remuneration. On September 16, 2003, the Department declined to initiate investigations of petitioners' allegations. For additional information, *see* the September 16, 2003, New Subsidy Allegations memorandum to Melissa G. Skinner, Director, Office of AD/CVD Enforcement VI, from Darla Brown, Case Analyst, on file in the Central Records Unit, Room B–099 of the Main Commerce Building (CRU).

On April 21, 2003, the Department issued a questionnaire to the UKG and UCL, Urenco's producer of subject merchandise in the United Kingdom. On April 29, 2003, the Department issued a questionnaire to the Government of the Netherlands (GON) and Urenco Nederland BV (UNL), Urenco's producer of subject merchandise in the Netherlands. On April 30, 2003, the Department issued a questionnaire to the Government of Germany (GOG) and Urenco Deutschland GmbH (UD), Urenco's producer of subject merchandise in Germany.

We received questionnaire responses from the UKG and UCL on May 28, 2003, from the GON and Urenco Nederland on June 5, 2003, from UD on June 6, 2003, and from the GOG on June 10, 2003. The Department issued a supplemental questionnaire to UCL on October 14, 2003; UCL submitted its response on October 28, 2003.

On October 23, 2003, we issued an extension of the due date for these preliminary results from October 31, 2003, to January 29, 2004. *See Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom: Extension of Preliminary Results of Countervailing Duty Administrative Reviews,* 68 FR 60643 (October 23, 2003) (*Extension Notice*). We conducted verification of UCL in Marlow, United Kingdom on December 3 through December 4, 2003.

In accordance with 19 CFR 351.213(b), these reviews cover only those producers or exporters for which a review was specifically requested. The companies subject to these reviews are Urenco, UD, UNL, and UCL. These reviews cover five programs.

Scope of Reviews

For purposes of these reviews, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies,

[1] Petitioners are the United States Enrichment Corporation (USEC) and USEC Inc.

regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of these orders. Specifically, these orders do not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of these orders. For purposes of these orders, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of these orders.

Also excluded from these orders is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to these orders is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Period of Review

The period of review (POR) for these administrative reviews is May 14, 2001, through December 31, 2002.[2]

International Consortium

In our *Notice of Final Affirmative Countervailing Duty Determinations: Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom,* 66 FR 65903 (December 21, 2001) (*LEU Final*) and accompanying Issues and Decision Memorandum: Final Affirmative Countervailing Duty Determinations: Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom—Calendar Year 1999 (LEU Decision Memo) at Comment 2: International Consortium Provision, we found that the Urenco Group operates as an international consortium within the meaning of section 701(d) of the Tariff Act of 1930, as amended (the Act). No new information or evidence of changed circumstances has been presented since the *LEU Final* which would persuade us to reconsider this conclusion. Therefore, we continue to find that the Urenco Group of companies constitutes an international consortium. Accordingly, we have continued to cumulate all countervailable subsidies received by the member companies from the GOG, the GON, and the UKG, pursuant to section 701(d) of the Act.

Subsidies Valuation Information

Allocation Period

Under section 351.524(d)(2) of the Department's regulations, we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System (IRS Tables), as updated by the Department of the Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant. In this instance, however, the IRS Tables do not provide a specific asset guideline class for the uranium enrichment industry.

In the *LEU Final,* we derived an AUL of 10 years for the Urenco Group (*see* LEU Decision Memorandum at Comment 3: Average Useful Life). The AUL issue is currently subject to litigation related to the investigation. In these reviews, we continue to apply the 10-year AUL that was calculated in the *LEU Final.*

Benchmarks for Loans and Discount Rate

In accordance with section 351.524(d)(3)(i)(A) of the Department's regulations, we used, where available, discount rates that were based on the cost of long-term, fixed-rate financing for commercial loans received by the Urenco Group companies. Where the Urenco Group companies had no comparable commercial loans, we used national average interest rates as provided by the companies' corresponding government as specified by section 351.505(a)(3)(ii) of the Department's regulations.

Calculation of Ad Valorem Rates

In the *LEU Final,* we calculated the *ad valorem* subsidy rates using the following formula:

$$A = \frac{B*(C/D)}{E}$$

Where:

A = *Ad Valorem* Program Rate.
B = Subsidy Benefit (in U.S. Dollars).[3]
C = Urenco Group's Sales of Subject Merchandise to the United States during the Calendar Year (in Euros).
D = Urenco Group's Total Sales during the Calendar Year (in Euros).[4]
E = Urenco Group Sales that Entered the U.S. during the Calendar Year (in U.S. Dollars).

We continue to apply this formula to calculate the *ad valorem* subsidy rates in these preliminary results.

Programs Preliminarily Determined To Confer Subsidies From the Government of Germany

1. Enrichment Technology Research and Development Program

In the *LEU Final,* we determined that, under this program, the GOG promoted the research and development (R&D) of uranium enrichment technologies. The Federal Ministry for Research and Technology provided Uranitisotopentrennungsgeselleschaft mbH (Uranit) (the privately-held German arm of the Urenco Group) a series of grant disbursements for the funding of R&D projects. The funds were provided to encourage continuous improvements of centrifuge

[2] For the purposes of these preliminary results, we have analyzed data for the period January 1, 2001, through December 31, 2001, to determine the subsidy rate for exports of subject merchandise made during the period in 2001 when liquidation of entries was suspended. In addition, we have analyzed data for the period January 1, 2002, through December 31, 2002, to determine the subsidy rate for exports during that period. Further, we are using the 2002 subsidy rate to establish the cash deposit rate for entries of subject merchandise subsequent to the issuance of the final results of these administrative reviews.

[3] The subsidy benefit allocable to the POR for each program originally is calculated in the currency in which it was provided. In calculating the program rate, we converted the value of the subsidy benefit from the original currency to U.S. dollars.

[4] As discussed below, the total sales figure used in this equation has been adjusted depending on whether the subsidy was tied to R&D or capacity expansion sales.

technologies and to fund the research of lasers and other advanced technologies. The grant disbursements under this program were made during the years 1980 through 1993.

Assistance under this program was provided for in two agreements and two sets of guidelines: the ''Financing Agreement,'' the ''Operating Agreement,'' the ''Terms and Conditions for Allocations on a Cost Basis to Companies in Industry for Research and Development Projects'' (BKFT75), and the ''Auxiliary Terms and Conditions for Grants on a Cost Basis from the Federal Ministry for Research and Development to Companies in Industry for Research and Development Projects'' (NKFT88), respectively. According to Article 4, section 6, of the ''Financing Agreement,'' the funds provided to Uranit under this agreement had contingent repayment obligations. The funds were repayable within five years of disbursement, contingent upon the company's earnings. If the funds were not repaid within five years, then the repayment obligation lapsed. The funds provided under the ''Operating Agreement'' were not repayable. Uranit also received funds for laser R&D pursuant to the terms and conditions of the BKFT75 and NKFT88.

In the *LEU Final,* we determined that the assistance provided under this program constitutes countervailable subsidies within the meaning of section 771(5) of the Act. Specifically, we found that the grant disbursements constitute a financial contribution and confer a benefit, as described in sections 771(5)(B) and 771(5)(D)(i) of the Act. We further found that this program is specific under section 771(5A)(D)(i) of the Act because the provision of assistance under this program was limited to one company. In addition, we found that the program provided non-recurring benefits under section 351.524(c)(2) of the Department's regulations because the assistance was made pursuant to specific government agreements and was not provided under a program that would provide assistance on an ongoing basis from year to year. *See* LEU Decision Memo at the ''Enrichment Technology Research and Development Program'' section. No new information or evidence of changed circumstances has been presented to warrant reconsideration of this determination; therefore, for these preliminary results, we continue to determine that this program is countervailable.

We also determined in the *LEU Final* that no portion of any of the disbursements received by Uranit was repaid. We determined that the disbursements provided under the ''Financing Agreement'' were countervailable under 19 CFR 351.505(d)(2) as grants because they constituted waivers of contingent liabilities. We determined that the disbursement made in 1985 conferred a benefit during the POI because the year contingent payment obligation lapsed, 1990, fell within the ten-year allocation period. With regard to the subsidies provided for laser R&D, we determined that the disbursements made between 1990 and 1993 under the NKFT88 were countervailable under 19 CFR 351.504 beginning in the year of receipt because the repayment provisions of the NKFT88 were not applicable for the grants ATT 22279/1, ATT 2279 A/2, ATT 2279/2, and ATT 2281/3. *Id.* We also determined that, as a result of applying the 0.5 percent test, in accordance with 19 CFR 351.524(b)(2), laser grants ATT 2279 A/2 and ATT 2281 /3 were expensed in the year of receipt. *Id.* No new information or evidence of changed circumstances has been presented to warrant reconsideration of these determinations.

We calculated the benefits received under this program during the POR, pursuant to 19 CFR 351.505(d)(2) (our contingent liability methodology) with regard to the 1985 disbursement made under the Financing Agreement, and, pursuant to 19 CFR 351.504 (our standard grant methodology) with regard to the laser R&D grant disbursements made under the NKFT88 in 1990 or later, and allocated both of them over 10 years. *See* the allocation period discussion in the ''Subsidies Valuation Information'' section, above. We used as our discount rates the long-term corporate bond rates in Germany because the grants were denominated in Deutschmarks.

We preliminarily determine that grant disbursements made under this program prior to 1992, including the 1985 disbursement made under the ''Financing Agreement,'' no longer provide a benefit during the POR. We also preliminarily determine that only the grant disbursements made in 1992 and 1993 continue to provide benefits during the POR.

To calculate the benefit from this program, for each calendar year of the POR, we summed the benefits that remained as a result of the application of our allocation methodology. We then calculated an *ad valorem* rate for each calendar year of the POR using the methodology described in the ''Calculation of *Ad Valorem Rates*'' section, above. We note that because the benefits were provided for the promotion of R&D, we have used as the denominator the company's sales of subject merchandise as well as the sales of those products that were manufactured using the same technology that benefitted from the R&D subsidies. *See* LEU Decision Memo at Comment 14: Sales Denominator of the Urenco Group. On this basis, we preliminarily determine the net countervailable subsidy to be 0.03 percent *ad valorem* for 2001 and 0.00 percent *ad valorem* for 2002.

2. Forgiveness of Centrifuge Enrichment Capacity Subsidies

In accordance with the ''Risk Sharing Agreement'' (RSA) and the ''Profit Sharing Agreement'' (PSA) signed between the GOG and Uranit, the GOG agreed to provide funds to UD to support the promotion of an uranium enrichment industry. These two agreements were signed on July 18, 1975, and the GOG provided a total of DM 338.3 million from 1975 to 1993 to Uranit in support of the Treaty of Almelo's goal of creating and promoting the enrichment industry.[5] Under the terms of the agreements, repayment of the funds was conditional and based upon the financial performance of the company. However, in no case was the amount of the total repayments to exceed twice the amount of the funds provided to UD by the GOG.

In 1987, Uranit signed a new agreement with the GOG. This ''Adjustment Agreement'' stipulated that Uranit would repay GOG for the DM 333.8 million in centrifuge capacity assistance and an additional agreed-upon DM 31.7 million which was not related to the centrifuge subsidies. Prior to the 1993 merger of the Urenco Group, the GOG and Uranit negotiated a basis to terminate the repayment obligations of the RSA and the PSA. Based upon these negotiations, a ''Termination Agreement'' was signed on July 13, 1993, and amended on October 27, 1993. Prior to the Termination Agreement, Uranit had made repayments totaling DM 5.6 million. Under the terms of the Termination Agreement, Uranit was to pay the GOG DM 101.1 million, thus terminating the repayment obligations stipulated in the Adjustment Agreement. Uranit made this DM 101.1 million payment on July 1, 1994.

[5] In March 1970, the GOG, the GON, and the UKG signed the Treaty of Amelo, which became effective in July 1971. The purpose of the treaty was for the three governments to collaborate in the development and exploitation of the gas centrifuge process for producing enriched uranium. Prior to 1971, the centrifuge R&D programs in each country were independent.

In the *LEU Final,* we determined this program to be countervailable. We found that assistance provided under this program to Uranit was specific under section 771(5A)(D)(i) of the Act because the program was limited to one company. In addition, we determined that a financial contribution was provided under section 771(5)(D)(i) of the Act. We also determined that a benefit was provided to the company, within the meaning of section 771(5)(E) of the Act to the extent that the repayments made to the GOG were less than the amount of assistance provided to the company under this program. *See* LEU Decision Memo at the ''Forgiveness of Centrifuge Enrichment Capacity Subsidies'' section. No new information or evidence of changed circumstances has been presented to warrant reconsideration of this determination; therefore, for these preliminary results, we continue to determine that this program is countervailable.

In the *LEU Final,* we determined that this program provided a grant under 19 CFR 351.505(d)(2) because there was a waiver of a contingent liability. We determined the adjusted grant amount to be equal to the difference between the original amount of centrifuge subsidies (DM 338.3 million) and the total amount of repayment attributable to those centrifuge subsidies (DM 97.556 million), which we calculated to be DM 240.744 million. We also determined that the first year of allocation was 1993, the year in which the repayment obligation stipulated in the Adjustment Agreement was waived. No new information or evidence of changed circumstances has been presented to warrant reconsideration of this determination.

To determine the benefit conferred by this program during the POR, we applied the Department's standard grant methodology and allocated the adjusted grant amount of DM 240.744 million over 10 years. *See* the allocation period discussion under the ''Subsidies Valuation Information'' section, above. We used as the discount rate the long-term corporate bond rate in Germany for 1993. We then calculated an *ad valorem* rate for each calendar year of the POR using the methodology described in the ''Calculation of *Ad Valorem* Rates'' section above. We note that because this subsidy was provided for the promotion of uranium enrichment, we have used as the denominator sales from enrichment activities only. For further explanation, *see* LEU Decision Memo at Comment 14: Sales Denominator of the Urenco Group. On this basis, we preliminarily determine the net countervailable subsidy to be 1.63 percent *ad valorem* for 2001 and 1.40 percent *ad valorem* for 2002.

Program Preliminarily Determined Not To Confer a Benefit From the Government of Germany

1. Investment Allowance Act

In the *LEU Final*, we determined that, from 1982 through 1990, the GOG provided countervailable grants to UD and Uranit under the Investment Allowance Act for the enrichment plant in Gronau and for the R&D facility in Julich. We found this program to be specific under section 771(5A)(D)(iv) of the Act because grants provided under this program are limited to companies located in designated regions within Germany. We determined that a financial contribution was provided by this program under section 771(5)(D)(i) of the Act and that a benefit was provided within the meaning of section 771(5)(E) of the Act in the amount of grant disbursements received under this program. We determined that this program provided non-recurring benefits under 19 CFR 351.524(c)(2) of the Department's regulations because the assistance was tied to the capital assets of the companies and was not provided on an ongoing basis from year to year. *See* LEU Decision Memo at the ''Investment Allowance Act'' section and Comment 15: Investment Allowance Act. No new information or evidence of changed circumstances has been presented to warrant reconsideration of this determination; therefore, for these preliminary results, we continue to determine that this program is countervailable.

As explained above in the allocation period section of the ''Subsidies Valuation Information,'' we are using 10 years as the time period for allocating non-recurring benefits. Because the grant disbursements under this program were made between 1982 and 1990, the 10-year allocation period for each grant disbursement expired prior to the POR. Therefore, we preliminarily determine that each of these grants has been fully allocated prior to the POR, and, therefore, no benefit was received under this program during the POR.

Programs Preliminarily Determined To Be Not Used From the Government of the Netherlands

1. Wet Investeringsrekening Law (WIR)

In the *LEU Final*, we found that the WIR program was not used. In the instant administrative reviews, we asked UNL if it received or used benefits under this program during the POR. UNL responded that it did not apply for, use, or receive benefits from the WIR program during the POR. Furthermore, UNL reported that the WIR program ended in 1988 and investment credits could only be claimed through the 1989 tax year. Therefore, we preliminarily find that the WIR was not used during the POR.

2. Regional Investment Premium

In the *Amended Final*, we found that, after correcting for a ministerial error in the *LEU Final*, the subsidy from the Regional Investment Program (IPR) was less than 0.5 percent of the Urenco Group's combined sales and, in accordance with 19 CFR 351.524(b)(2), was allocable to the year of receipt (1985). As a result of this revision, the net subsidy for this program decreased from 0.03 percent *ad valorem* to 0.00 percent *ad valorem. See Amended Final*, 67 FR 6688. Moreover, in the instant reviews, UNL reported that it did not apply for nor did it use the IPR program during the POR. Therefore, we preliminarily determine that UNL did not use the IPR program during the POR.

Verification

In accordance with section 782(i) of the Act, we conducted verification of UCL in Marlow, United Kingdom on December 3 through December 4, 2003.

Preliminary Results of Reviews

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for the Urenco Group Ltd., the only producer/exporter subject to these administrative reviews, for calendar years 2001 and 2002. We preliminarily determine that the total estimated net countervailable subsidy rate is 1.66 percent *ad valorem* for 2001 and 1.40 percent *ad valorem* for 2002.

If the final results of these reviews remain the same as these preliminary results, the Department intends to instruct the U.S. Customs and Border Protection (CBP), within 15 days of publication of the final results of these reviews, to liquidate shipments of low enriched uranium by Urenco from Germany, the Netherlands, and the United Kingdom entered, or withdrawn from warehouse, for consumption from May 14, 2001, through September 11, 2001, at 1.66 percent *ad valorem* and from February 13, 2002, through December 31, 2002, at 1.40 percent *ad valorem* of the f.o.b. invoice price. The Department also intends to instruct the CBP to collect cash deposits of estimated countervailing duties at 1.40 percent *ad valorem* of the f.o.b. invoice price on all shipments of the subject merchandise from the reviewed entity, entered, or withdrawn from warehouse,

for consumption on or after the date of publication of the final results of these reviews. In addition, for the periods May 14, 2001, through September 11, 2001, and February 13, 2002, through December 31, 2002, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

Because the Uruguay Round Agreements Act (URAA) replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was *not* requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company* v. *United States*, 822 F. Supp. 782 (CIT 1993), and *Floral Trade Council* v. *United States*, 822 F. Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the old antidumping regulation on automatic assessment, which is identical to the current regulation, 19 CFR 351.212(c)(ii)(2)). Therefore, the cash deposit rates for all companies except those covered by these reviews will be unchanged by the results of these reviews.

We will instruct the CBP to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding. *See Notice of Amended Final Determinations and Notice of Countervailing Duty Orders: Low Enriched Uranium from Germany, the Netherlands and the United Kingdom*, 67 FR 6688 (February 13, 2002). These cash deposit rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the publication of these preliminary results. Rebuttal briefs, which are limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs, unless otherwise specified by the Department. Parties who submit argument in this proceeding are requested to submit with the argument: (1) A statement of the issue, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of these administrative reviews, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

These administrative reviews are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 29, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–2522 Filed 2–4–04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-427–819]

Preliminary Results of Countervailing Duty Administrative Review: Low Enriched Uranium from France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on low enriched uranium from France for the period May 14, 2001 through December 31, 2002[1]. For information on the net subsidy for the reviewed company, please see the ''Preliminary Results of Review'' section of this notice. Interested parties are invited to comment on these preliminary results. (*See* the ''Public Comment'' section of this notice).

EFFECTIVE DATE: February 5, 2004.

FOR FURTHER INFORMATION CONTACT: Carrie Farley at (202) 482–0395 or Tipten Troidl at (202) 482–1767, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 13, 2002, the Department published in the **Federal Register** the countervailing duty order on low enriched uranium from France. *See Amended Final Determination and Notice of Countervailing Duty Orders: Low Enriched Uranium from France*, 67 FR 6689 (February 13, 2002). On February 3, 2003, the Department published an opportunity to request an administrative review of this countervailing duty order. *See Antidumping or Countervailing Duty*

[1] Consistent with the Department's practice, for the purposes of these preliminary results, we have analyzed data for the period January 1, 2001 through December 31, 2001 to determine the subsidy rate for exports of subject merchandise made during the period in 2001 when liquidation of entries was suspended. In addition, we have analyzed data for the period January 1, 2002 through December 31, 2002 to determine the subsidy rate for exports during that period. Further, we are using the 2002 subsidy rate to establish the cash deposit rate for entry of subject merchandise subsequent to the issuance of the final results of this administrative review.

Order, Finding, or Suspended Investigation; Opportunity to Request an Administrative Review, 68 FR 5272 (February 3, 2003). We received a timely request for review of Eurodif S.A. (Eurodif), by both respondents and petitioners.[2] On March 25, 2003, the Department published the initiation of the administrative review of the countervailing duty order on low enriched uranium from France, covering the period of review (POR) May 14, 2001 through December 31, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Revocation in Part*, 68 FR 14394 (March 25, 2003).

On May 2, 2003, the Department issued a questionnaire to the Government of France (GOF) and Eurodif. On June 19, 2003, the Department received questionnaire responses from the GOF, and Eurodif. On October 23, 2003, the Department published in the **Federal Register** an extension of the deadline for the preliminary results. See Low Enriched Uranium from France, Germany, the Netherlands, and the *United Kingdom: Extension of Preliminary Results of Countervailing Duty Administrative Reviews*, 68 FR 60643 (October 23, 2003). On October 14, 2003 and November 3, 2003, we issued supplemental questionnaires to respondents. On October 31, 2003 and November 7, 2003, we received supplemental responses from respondents. From November 11 through November 14, 2003, we conducted verification of the responses of Eurodif and the GOF.

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters for which a review was specifically requested. The company subject to this review is Eurodif. This review covers 2 programs.

Scope of Order

For purposes of this order, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of this order. Specifically, this order does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this order. For purposes of this order, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of this order.

Also excluded from this order is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Period of Review

The POR for which we are measuring subsidies is May 14, 2001, through December 31, 2002.

Company History

Eurodif was formed in 1973 by French and foreign government agencies to provide a secure source of LEU, in order to facilitate the development of nuclear energy programs in participating countries. During the POR, Eurodif was 44.65 percent-owned by COGEMA, which itself is principally owned by a subsidiary of the Commissariat d'Energie Atomique (CEA), an agency of the GOF. Further, Eurodif was 25 percent-owned by SOFIDIF, a French company 60 percent-owned by COGEMA, thereby effectively placing COGEMA's ownership of Eurodif during the POR at approximately 60 percent. The remaining major shareholders of Eurodif during the POR were ENUSA, an entity of the Spanish government, SYNATOM, an entity of the Belgian government, and ENEA, an entity of the Italian government.

Programs Preliminarily Determined To Confer Subsidies

1. Purchase at Prices that Constitute ''More Than Adequate Remuneration''

Eurodif provides low enriched uranium to EdF. EdF is a wholly-owned French government agency that supplies, imports and exports electricity. EdF is regulated by the Gas, Electricity and Coal Department of the Ministry of Industry (DIGEC) and the Budget and Treasury Departments of the Ministry of France. EdF is the major supplier of electricity in France and EdF's nuclear facilities account for approximately 85 percent of the power supplied by EdF in 2002. To date, EdF has entered into three long-term contracts with Eurodif to secure LEU. The first contract was negotiated in 1975; Eurodif began enrichment at its Georges-Besse gaseous diffusion facility in 1979.

In the *Final Affirmative Countervailing Duty Determination: Low Enriched Uranium from France*, 66 FR 65901 (December 21, 2001) (*1999 LEU*) we found this program to be countervailable. The facts on which this determination was made have not changed. EdF is still owned by the GOF, and because EdF is purchasing a good from Eurodif a financial contribution is being provided under section 771(5)(D)(iv) of the Act. In addition, because this program is available only to Eurodif, we continue to find that this program is specific under section 771(5A)(D)(i) of the Act.

Next, we must determine whether a benefit is provided to Eurodif under this program. Under section 771(5)(E)(iv) of the Act, a countervailable benefit may be provided by a government's purchase of a good for ''more than adequate remuneration.'' Under section 771(5)(E)(iv) of the Act, the adequacy of remuneration will be determined in relation to the prevailing market conditions for the goods being purchased in the country which is subject to investigation. Therefore, in order to determine whether the prices paid by EdF constitute ''more than adequate remuneration,'' we must compare the prices paid by EdF to Eurodif with the prices paid by EdF to its other suppliers.

[2] USEC Inc., its wholly owned subsidiary, United States Enrichment Corporation (USEC) and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL-CIO, CLC, and Local 5-550 and Local 5-689 (the petitioners)

Due to the difference in the pricing structure between Eurodif and EdF, as compared with the pricing between EdF and its other suppliers, it is important to make certain adjustments to our comparison. Unlike most other customers, EdF provides its own energy for Eurodif to use when producing LEU for EdF. In 2001, Eurodif paid EdF for the energy it used and re-billed EdF an identical amount. In 2002, Eurodif and EdF changed their billing practice so that EdF now pays Eurodif in energy for the energy Eurodif uses to produce EdF's LEU. For both years, Eurodif charged EdF for the operational costs associated with the production of its LEU. As EdF does not supply electricity to its other LEU suppliers, these suppliers charge EdF a single price per separative work unit (SWU). Thus, we have used this single price per SWU as our benchmark price. In order to make a proper comparison between the benchmark price and the government price (*i.e.*, the price paid by EdF), the Department has included both operational and energy prices paid by EdF to Eurodif.

As part of the arrangement for obtaining LEU, customers often provide an amount of natural uranium equal to that which theoretically went into the LEU they are purchasing. The record does not contain information on the value of the natural uranium provided by EdF or other customers to Eurodif. In the ''Issues and Decision Memorandum from Bernard T. Carreau, Deputy Assistant Secretary for AD/CVD Enforcement II to Faryar Shirzad, Assistant Secretary for Import Administration concerning the Final Affirmative Countervailing Duty Determination: Low Enriched Uranium from France - Calendar Year 1999'' (Decision Memorandum) dated December 13, 2001, we assumed that the value of all natural uranium is the same. *See* Decision Memorandum at 5. In making the comparison in this review we have continued to assume that the value of all natural uranium is the same in instances where EdF supplied its own feed material for enrichment. Thus, we have not included a value for the natural uranium component of the LEU delivered to EdF by Eurodif .

In order to determine whether a benefit was provided to Eurodif during the POR, we calculated a per-SWU price for both the energy and operational components of the LEU purchased by EdF from Eurodif based on the price for the component divided by the quantity of SWU. To derive the per-SWU energy component cost under the new billing arrangement in 2002 where we did not have a euro price, we multiplied the MwH/SWU rate paid by EdF to Eurodif by Eurodif's cost of electricity from EdF. After adding these two components together, we compared the per-SWU price paid to Eurodif by EdF during each calendar year with the per-SWU price paid by EdF to its other LEU suppliers during each calendar year. Based on our analysis, we preliminarily determine that prices paid by EdF to Eurodif were higher than prices EdF paid to its other suppliers. Therefore, in accordance with section 771(5)(E)(iv) of the Act, we preliminarily determine that this program conferred countervailable benefits to Eurodif during both 2001 and 2002. Because EdF's purchases of this product from Eurodif are not exceptional but, rather, are made on an ongoing basis from year to year, we determine that the benefit conferred under this program is recurring under section 351.524(c) of the Department's Regulations. Therefore, the benefit is expensed in the year of receipt, *i.e.*, the year in which the purchases are made. To calculate the benefit conferred to Eurodif, we multiplied the calculated price differential by the quantity of SWU component of the LEU purchased from Eurodif by EdF during each calendar year.

Although the cash component of EdF's LEU purchases from Eurodif was paid on a ''per-SWU'' basis, the contracts also contained provisions for the natural uranium component of the LEU as well as the electricity used by Eurodif in the production of EdF's LEU. As stated above, we have determined that the value of the natural uranium component of the LEU produced by Eurodif from EdF's feed material is equal to that produced by EdF's other suppliers from EdF's feed material. Therefore, we did not need to calculate a price differential for the natural uranium component of the LEU. Rather, the natural uranium components of the LEU cancelled each other out.

Also, we calculated an additional benefit from sales pursuant to the contract listed in Exhibit 16 J of Eurodif's June 19, 2003 questionnaire response. For a more detailed discussion, *see* Memorandum on ''Eurodif's sales pursuant to the contract provided in Exhibit 16J of the June 19, 2003 questionnaire response,'' dated January 29, 2004, in the case file in the Central Records Unit, main Commerce building, room B-099 (the CRU).

Next, we multiplied the benefit amount by the sales of subject merchandise to the United States, divided by total sales, and divided the result by sales that entered U.S. Customs during calendar years 2001 and 2002 respectively. Thus, we have calculated the *ad valorem* rate for this program using the following formula:

$$A = \frac{B * (C/D)}{E}$$

Where:

A = Ad Valorem Rate
B = Subsidy Benefit
C = Sales of Subject Merchandise to the United States During the Calendar Year
D = Total Sales During the Calendar Year (including COGEMA sales on behalf of Eurodif)
E = Sales That Entered U.S. Customs During the Calendar Year

On this basis, we preliminarily determine a net countervailable subsidy under this program of 6.20 percent *ad valorem* for 2001 and 1.40 percent *ad valorem* for 2002 for Eurodif.

2. Exoneration/Reimbursement of Corporate Income Taxes

Under a specific governmental agreement entered into upon Eurodif's creation, Eurodif is only liable for income taxes on the portion of its income relating to the percentage of its private ownership. Eurodif is fully exonerated from payment of corporate income taxes corresponding to the percentage of its foreign government ownership and is eligible for a reimbursement of the amount of corporate income taxes corresponding to its percentage of French government ownership. Based on this governmental agreement, Eurodif was exonerated from a portion of its 2000 and 2001 corporate income taxes filed during calendar years 2001 and 2002. This tax exemption constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. Further, because the tax exemption is limited to Eurodif, the benefit is specific in accordance with section 771(5A)(D)(i) of the Act. In *1999 LEU*, we found this program to be countervailable. *See* Decision Memorandum at 7.

As noted above, Eurodif was also eligible for a reimbursement of the amount of income taxes corresponding to its percentage of French government ownership. Eurodif reported that the portion of its taxes attributable to French government ownership was paid in 2000 and 2001, and was reimbursed in 2001 and 2002. In *1999 LEU*, we found this program to be countervailable. *See* Decision Memorandum at 7. No new information has been provided in this review to warrant reconsideration of these determinations.

To calculate the benefit conferred upon Eurodif from both parts of this program, we divided the amount of

exonerated and reimbursed taxes in each calendar year by Eurodif's total sales during that calendar year. We adjusted Eurodif's sales denominator using the methodology described in the ''Purchase at Prices that Constitute ''More Than Adequate Remuneration'' section, above. On this basis, we preliminarily determine a net countervailable subsidy to Eurodif from this program of 0.34 percent *ad valorem* in 2001 and 1.63 percent *ad valorem* in 2002.

Verification

In accordance with section 782(i) of the Act, we conducted verification at Eurodif and the GOF on November 11 through November 14, 2003.

Preliminary Results of Review

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for Eurodif, the only company under review, for 2001 and 2002. We preliminarily determine that the total estimated net countervailable subsidy rate is 6.54 percent ad valorem for 2001 and 3.03 percent *ad valorem* for 2002.

If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U.S. Customs and Border Protection(CBP), within 15 days of publication of the final results of this review, to liquidate shipments of low enriched uranium from France by Eurodif entered, or withdrawn from warehouse, for consumption from May 14, 2001 through September 11, 2001 at 6.54 percent *ad valorem* and from February 13, 2002 through December 31, 2002 at 3.03 percent *ad valorem* of the f.o.b. invoice price. The Department also intends to instruct CBP to collect cash deposits of estimated countervailing duties at 3.03 percent *ad valorem* of the f.o.b. invoice price on all shipments of the subject merchandise from the reviewed company, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was *not* requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company v. United States*, 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council v. United States*, 822 F.Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR 351.212(c)(ii)(2). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct CBP to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding. *See Notice of Amended Final Determination and Notice of Countervailing Duty Order: Low Enriched Uranium from France*, 67 FR 6889 (February 13, 2002). These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs, unless otherwise specified by the Department. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, that is, thirty-seven days after the date of publication of these preliminary results.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of arguments made in any case or rebuttal briefs.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(I)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(I)(1)).

Dated: January 29, 2004.

James J. Jochum,

Assistant Secretary Import Administration.

[FR Doc. 04–2523 Filed 2–4–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 040129030–4030–01]

Special American Business Internship Training Program (SABIT)

AGENCY: International Trade Administration (ITA), U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: This Notice announces availability of funds for the Special American Business Internship Training Program (SABIT), for training business executives and scientists (also referred to as ''Interns'') from Eurasia (see program description for eligible countries). The amount of financial assistance available for the program is $1,500,000.

DATES: Applications must be received by 5 p.m. Eastern Time on April 23, 2004. Processing of complete applications takes approximately three

to six months. All awards will be made by September 30, 2004.

ADDRESSES: Request for Applications: Competitive Application Kits will be available from ITA starting on the day this notice is published. To obtain a copy of the Application Kit please contact SABIT by: (1) E-mail at *SABITApply@ita.doc.gov*, providing your name, company name and address; (2) Telephone (202) 482–0073; (3) The World Wide Web at *http://www.mac.doc.gov/sabit/sabit.html*; (4) Facsimile (202) 482–2443; (5) Mail: Send a written request with two self-addressed mailing labels to Application Request, The SABIT Program, U.S. Department of Commerce, 1401 Constitution Avenue, NW., FCB 4100W, Washington, DC 20230. The telephone numbers are not toll free numbers. Only one copy of the Application Kit will be provided to each organization requesting it, but it may be reproduced by the requesters.

FOR FURTHER INFORMATION CONTACT: Tracy M. Rollins, Director, SABIT Program, U.S. Department of Commerce, phone (202) 482–0073, facsimile (202) 482–2443. These are not toll free numbers.

SUPPLEMENTARY INFORMATION: *Electronic Access:* The full funding opportunity announcement for the SABIT program is available via Web site: *http://www.fedgrants.gov* or by contacting the program official identified above.

Funding Availability: Pursuant to section 632(a) of the Foreign Assistance Act of 1961, as amended (the ''Act'') funding to the U.S. Department of Commerce (DOC) for the program will be provided by the United States Agency for International Development (AID). ITA will award financial assistance and administer the program pursuant to the authority contained in section 635(b) of the Act and other applicable grant rules. The amount of financial assistance available for the program is $1,500,000. Additional funding may become available at a future date.

Statutory Authority: 22 U.S.C. 2395(b).

Catalog of Federal Domestic Assistance (CFDA): 11.114, Special American Business Internship Training Program.

Program Description: The Department of Commerce, International Trade Administration (ITA) established the SABIT program in September 1990 to assist Eurasia's transition to a market economy. Since that time, SABIT has been supporting U.S. companies and organizations that wish to provide business executives and scientists from Eurasia three to six month programs of hands-on training in a U.S. market economy. Under the SABIT program, qualified U.S. firms will receive funds through a cooperative agreement with ITA to help defray the cost of hosting Interns. The training must take place in the United States. ITA will approve Eurasian managers or scientists nominated by participating U.S. companies, or assist in identifying eligible candidates. Interns may be from any of the following countries in Eurasia: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. Some Eurasian countries may have certain restrictions with regard to U.S. funding. These restrictions, and any waivers of restrictions, are made by the U.S. Department of State, not the SABIT program. Information on current restrictions is available upon request, but new restrictions may be put into place after a grant is awarded. The U.S. firms will be expected to provide the Interns with a hands-on, non-academic, executive training program designed to maximize their exposure to management or commercially oriented scientific operations. At the end of the training program, the Intern must return to his/her home country. If there is any evidence of a conflict of interest between the nominated Intern and the company, the Intern is disqualified.

Managers: SABIT assists economic restructuring in Eurasia by providing mid-to-senior level business managers with practical training in American methods of innovation and management in such areas as strategic planning, financing, production, distribution, marketing, accounting, wholesaling, and/or labor relations. This first-hand experience in the U.S. economy enables Interns to become leaders in establishing and operating a market economy in Eurasia, and creates a unique opportunity for U.S. firms to familiarize key executives from Eurasia with their products and services. Sponsoring U.S. firms will benefit by establishing relationships with managers in similar industries who are uniquely positioned to assist their U.S. sponsors in doing business in Eurasia.

Scientists: SABIT provides opportunities for gifted scientists to apply their skills to peaceful research and development in the civilian sector, in areas such as defense conversion, medical research, and the environment, and exposes them to the role of scientific research in a market economy where applicability of research relates to business success. Sponsoring firms in the U.S. scientific community also benefit from exchanging information and ideas, and different approaches to new technologies.

All internships are three to six months; however, ITA reserves the right to allow an Intern to stay for a shorter period of time (no less than one month). ITA will reimburse companies for the round trip international travel (coach class tickets) of each Intern from the Intern's home city in Eurasia to the U.S. internship site, a stipend of $34 per day to the Intern(s), and housing costs of up to $500.00 per month (excluding utilities or telephone services). For cities with higher costs of living, up to $750.00 a month (excluding utilities or telephone services) may be reimbursed. Interns must return to their home countries immediately upon completion of their U.S. internships.

U.S. firms wishing to utilize SABIT in order to be matched with an intern without applying for financial assistance may do so. Such firms will be responsible for all costs, including travel expenses, related to sponsoring the intern. However, prior to acceptance as a SABIT intern, work plans and candidates must be approved by the SABIT Program. Furthermore, program training will be monitored by SABIT staff and evaluated upon completion of training. ITA does not guarantee that it will match Applicants with the profile provided to SABIT.

Award Period: Recipient firms will have one year from the date listed on the Financial Assistance Award form, CD–450, in order to use the funds. However, DOC reserves the right to allow an extension if the recipient can justify the need for extra time.

Eligibility: Eligible applicants for the SABIT program will include all for-profit or non-profit U.S. corporations, associations, organizations or other public or private entities located in the United States. Agencies or divisions of the Federal Government are not eligible. However, state and local governments are eligible.

Matching Requirements: The budget will not include matching requirements, however, recipients are expected to bear the costs beyond the $34 per day stipend, additional lodging costs (including utilities and local telephone service) beyond the reimbursed amount, any training-related travel within the United States, visa cost, emergency medical insurance, training manuals and provisions of the hands-on training for the Interns.

Project Funding Priorities: Applicant must indicate involvement in priority business sector(s). While Applicants involved in any industry sector may apply to the program, priority consideration is given to those operating

in the following sectors: (a) Agribusiness (including food processing and distribution, and agricultural equipment), (b) Defense conversion, (c) Energy, (d) Environment (including environmental clean-up), (e) Financial services (including banking and accounting), (f) Housing, construction and infrastructure, (g) Medical equipment, supplies, pharmaceuticals, and health care management, (h) Product standards and quality control, (i) Telecommunications, (j) Transportation and (k) Biotechnology. Priority funding will also be given to applicants applying to host Interns from the following countries: Armenia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.

Evaluation and Selection Procedures: Each application will receive an independent, objective review by one or more three or four-member review panels qualified to evaluate applications submitted under the program. Panels may include federal employees and non-federal individuals. No consensus advice will be given by the panel. Applications will be evaluated on a competitive basis after the deadline date in accordance with the selection evaluation criteria set forth above. Applicants that have received a passing score of 70 or above, based on the evaluation criteria weighting, will be ranked and awards will be made until funds are depleted. Applicants receiving scores below 70 will not be considered. ITA reserves the right to limit the award amount as well as the number of Interns per applicant.

Applicants must provide evidence of a satisfactory record of performance in grants, contracts and/or cooperative agreements with the Federal Government, if applicable. (Applicants who are or have been deficient in current or recent performance in their grants, contracts, and/or cooperative agreements with the Federal Government shall be presumed to be unable to meet this requirement.) If applicant has a Federal Government Performance Record Statement, this must be noted as specified in the Application Kit. If there is no record to date, the Applicant should indicate this. Not having a record of performance will not count against an organization.

Evaluation Criteria: Consideration for financial assistance will be given to those SABIT proposals that provide the following:

(1) *Work Plan.* The Applicant organization must provide a detailed work plan for the intended training. If the Applicant organization is providing different training plans for different Interns, it MUST attach a separate work plan for each. If Interns will be trained on the same plan, only one plan needs to be attached. If an internship will take place at several organizations, a work plan for each organization must be provided. The work plan must include: (a) A detailed week-by week description of internship activities; (b) a description of the intern's duties and responsibilities; (c) complete contact information for the everyday internship coordinator; (d) locations of training within the company, if the internship(s) will be in different divisions; (e) locations of training outside the company. If the Intern will spend substantial amounts of time at one or more external organizations or companies (over one week) the organization MUST provide a letter from each of those companies, indicating their willingness and ability to provide the planned training. *Evaluation Scale:* 0–40 points.

(2) *Training Objectives Statement.* The Applicant organization must provide an objectives statement, clearly titled ''Training Objectives'' with the name of the Applicant organization noted indicating why the organization wishes to provide a professional training experience to a Eurasian manager or scientist. The Applicant organization must explain how the proposed training would further the intent and goals of the SABIT program to provide practical, on-the-job, non-academic, non-classroom training for a professional-level Intern. *Evaluation Scale:* 0–30 points.

(3) *Intern Description(s) and Resume(s):* The Applicant organization should provide descriptions for all the Interns requested. This description should note the experience, education, and skills desired in a qualified candidate for the training they intend to provide. If an organization wants Interns from a specific region or country of Eurasia, it should be indicated in the application. If an organization has nominated candidates for training, their resumes must be attached. Additionally, the organization must describe for SABIT the relationship they have with the nominated candidates. All Intern candidates must meet SABIT criteria in order to participate. *Evaluation Scale:* 0–15 points.

(4) *Financial Resources Documentation:* Evidence of adequate financial resources of the Applicant organization to cover the costs involved in providing an internship(s). Evidence may include a published annual report, or a letter from the company's outside, independent accountant attesting to the organization's financial ability to support the training program planned and the funds requested or a letter from the organization's bank. All letters must be on the accountant's or bank's letterhead and addressed to the United States Department of Commerce. *Evaluation Scale:* 0–15 points.

Evaluation criteria are listed in decreasing importance. That is, evaluation criterion 1 is most important, followed by criterion 2, etc.

Selection Factors: The final selecting official reserves the right to choose or recommend recipients based on U.S. geographic location, organization size as well as priority business sectors and country priorities (listed in Project Funding Priorities, above) and past performance, when making awards. Recipients may be eligible, pursuant to approval of an amendment of an active award, to host additional interns under the program. The Director of the SABIT Program is the final selecting official for each award.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Application Forms and Kit: To obtain an Application Kit, please refer to the section above marked **ADDRESSES**. An original and two copies of the application (including all relevant standard forms and supplemental material) are to be sent to the address designated in the Application Kit and received no later than 5 p.m. Eastern Time on the closing date. Sign the original application (including forms) with blue ink.

Other Requirements: Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements, which are contained in **Federal Register** Notice of October 1, 2001 (66 FR 49917), as amended by the Notice published on October 30, 2002 (67 FR 66109), are applicable.

All applicants are advised of the following:

1. Participating companies will be required to comply with all relevant U.S. tax and export regulations. Export controls may relate not only to licensing of products for export, but also to technical data transfer. The U.S. Department of Commerce's Bureau of Industry and Security (BIS formerly BXA, the Bureau of Export Administration) reviews applications in question to determine whether export licenses are required. SABIT will not award a grant until the export license issue has been satisfied.

2. The following statutes apply to this program: Section 907 of the FREEDOM Support Act, Public Law 102–511, 22

U.S.C. 5812 note (Restriction on Assistance to the Government of Azerbaijan); Public Law 107–115 (Waiver of Section 907 of the Freedom Support Act); 7 U.S.C. 5201 *et seq.* (Agricultural Competitiveness and Trade—the Bumpers Amendment); The Foreign Assistance Act of 1961, as amended, including Chapter 11 of Part I, section 498A(b), Public Law 102–511, 22 U.S.C. 2295a(b) (regarding ineligibility for assistance); 22 U.S. C. 2420(a), section 660(a) of The Foreign Assistance Act of 1961, as amended (Police Training Prohibition); and provisions in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Acts, concerning impact on jobs in the United States (*see, e.g.*, 536 of Pub. L. 106–113).

3. The collection of information is approved by the Office of Management and Budget, OMB Control Number 0625–0225. Public reporting for this collection of information is estimated to be six hours per response, including the time for reviewing instructions, and completing and reviewing the collection of information. All responses to this collection of information are voluntary, and will be protected from disclosure to the extent allowed under the Freedom of Information Act.

The use of Standard Forms 270, 424 and 424B is approved under OMB Control Numbers 0348–0004, 0348–0043 and 0348–0040, respectively. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB number. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Clearance Officer, International Trade Administration, Department of Commerce, Room 4001, 14th and Constitution Avenue, NW., Washington, DC 20230.

4. *Executive Order 12866:* It has been determined that this notice is not significant for purposes of E.O. 12866.

5. *Executive Order 13132:* It has been determined that this notice does not contain policies with Federalism implications as that term is defined in E.O. 13132.

6. *Administrative Procedure Act/ Regulatory Flexibility Act:* Because prior notice and opportunity for public comment are not required by the Administrative Procedure Act for rules concerning public property, loans, grants, benefits and contracts (5 U.S.C. 553(a)(2)), a Regulatory Flexibility Analysis is not required and has not been prepared for this notice (5 U.S.C. 601 *et seq.*).

Dated: February 2, 2004.

Tracy M. Rollins,

Director, SABIT Program.

[FR Doc. 04–2457 Filed 2–4–04; 8:45 am]

BILLING CODE 3510–HE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 013004F]

Mid-Atlantic 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 Joint Mid-Atlantic Fishery Management Council (MAFMC) and the New England Fishery Management Council (NEFMC) Spiny Dogfish Committee will hold a public meeting.

DATES: The meeting will be held on Wednesday, February 18, 2004, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Comfort Inn Airport, 1940 Post Road, Warwick, RI; telephone: 401–732–0470.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Room 2115, Dover, DE 19904.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to identify issues to be included in the hearing draft of Amendment 1 to the Spiny Dogfish Fishery Management Plan.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Mid-Atlantic Council Office (*see* **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: February 2, 2004.

Peter H. Fricke,

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

[FR Doc. 04–2415 Filed 2–4–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 013004E]

Endangered Species; File No.1295

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

ACTION: Receipt of application for modification

SUMMARY: Notice is hereby given that the NMFS Northeast Fisheries Science Center (Responsible Official- Dr. John Boreman), 166 Water Street, Woods Hole, MA 02543–1097, has requested a modification to scientific research Permit No. 1295.

DATES: Written or telefaxed comments must be received on or before March 8, 2004.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9200; fax (978)281–9371.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy

submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Patrick Opay, (301)713–1401 or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject modification request to Permit No. 1295, issued on June 4, 2001 (66 FR 29934) is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 1295 authorizes the permit holder to take 5 loggerhead (*Caretta caretta*), 1 leatherback (*Dermochelys imbricata*), 2 Kemp's ridley (*Lepidochelys kempii*), 1 hawksbill (*Eretmochelys imbricata*), and 2 green (*Chelonia mydas*) sea turtles for scientific research. The permit holder requests authorization: (1) to allow research designed to develop and test methods to reduce incidental bycatch that occurs in commercial pound net and scallop drag fisheries, and (2) to authorize sampling of turtles captured incidentally during the NEFSC biennial shark longline surveys. The permit holder proposes to take an additional 113 loggerhead, 2 green, 40 Kemp's ridley, and 2 leatherback sea turtles annually during the remaining 2 years of the permit. Turtles will be measured, flipper and PIT tagged, biopsied and released. A total of up to 4 loggerhead and 3 Kemp's ridley sea turtle interactions are expected to result in lethal takes. The research will be conducted in the shelf waters of the Atlantic Ocean from Cape Hatteras to the Gulf of Maine.

Dated: January 30, 2004.

Amy C. Sloan,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–2417 Filed 2–4–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I. D. 012304B]

Fisheries of the Exclusive Economic Zone Off Alaska; Application for an Exempted Fishing Permit

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

ACTION: Notice of receipt of an application for an exempted fishing permit.

SUMMARY: This notice announces receipt of an application for an exempted fishing permit (EFP) from the Alaska Fisheries Development Foundation, Inc. (AFDF).If granted, this EFP would be used to support an AFDF project that investigates and develops hook-and-line techniques specific to the harvest of various rockfish species in the Gulf of Alaska (GOA) Southeast Outside District (SEO), which historically had been targeted by trawl gear, a gear type now prohibited in the SEO.The project is intended to promote the objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) by improving utilization of the rockfish resources in the SEO.

ADDRESSES: Copies of the EFP application may be obtained by writing to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P. O. Box 21668, Juneau, AK 99802, Attn: Lori Durall.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, 907–586–7228 or melanie.brown@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the domestic groundfish fisheries in the GOA under the FMP.The North Pacific Fishery Management Council (Council) prepared the FMP under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).Regulations governing the groundfish fisheries of the GOA appear at 50 CFR parts 600 and 679.The FMP and the implementing regulations at §§ 679.6 and 600.745(b) authorize the issuance of EFPs to allow fishing that would otherwise be prohibited.Procedures for issuing EFPs are contained in the implementing regulations.

NMFS received an application for an EFP from the AFDF.The purpose of this EFP is to support a project to develop and test hook-and-line gear for the harvest of rockfish species in the SEO that historically had been harvested with trawl gear.Trawl gear has been prohibited in the SEO since March 23, 1998, (63 FR 8356, February 19, 1998).The goal is to improve the utilization of rockfish resources in the SEO in ways that are consistent with Magnuson-Stevens Act national standard 1 which directs that conservation and management measures must achieve optimal yield from a fishery and national standard 5, which seeks to promote efficiency in the utilization offishery resources.The project, as described in the application, has two phases: (1) development of two rockfish-specific hook-and-line gear types that can be effectively handled on typical Southeast Alaska fishing vessels, and (2) comparative testing ofthe gear types developed in phase 1 in terms of catch of target rockfish species per unit of effort and incidental catch of nontarget species.

As an alternative to the use of trawl gear, which was prohibited in 1998, this EFP is necessary to allow the applicant to develop and test hook-and-line gear for rockfish in the SEO with certain exemptions from fishery closures and fish retention restrictions. The hook-and-line rockfish fisheries may close to prevent: (1) exceeding a total allowable catch (TAC) amount of a target species, (2) reaching overfishing levels of a non-target groundfish species, or (3) exceeding the prohibited species catch (PSC) limit for Pacific halibut.

Since the taking of rockfish is crucial for determining the effectiveness of hook-and-line gear in harvesting these species, and potential exists that the amount of some rockfish species taken during the EFP period would approach or exceed the TAC limits, the applicant has requested that rockfish taken during the testing not be counted toward the 2004 TAC amounts specified for the GOA under § 679.20. Counting rockfish taken during the testing phase against the TACs may create an additional burden on the hook-and-line industry by causing earlier closures of one or more hook-and-line fisheries.Although the EFP would allow the applicant to continue harvesting up to the amount specified in the permit, even if rockfish harvest amounts have resulted in the closure of one or more rockfish hook-and-line fisheries in the SEO, fishing activities would not be exempt from any hook-and-line fishery closures in the SEO that address overfishing concerns.

The EFP applicant has requested permission to retain and sell all rockfish species taken while fishing under the EFP.To accommodate this request, the EFP would exempt the applicant from one or more maximum retainable amounts specified in Table 10 of 50 CFR part 679.Since demersal shelf rockfish (DSR) are managed by the State of Alaska, which has special provisions for the retention and sale of DSR, the project is required to be conducted in compliance with the State's DSR regulations at 5 AAC 28.171, which allows full retention of DSR but limits the numbers of DSR that may be sold for revenue to the harvester.Sablefish and legal sized Pacific halibut would be retained within the limits of the

individual fishing quota available to those individual(s) on the vessel conducting the project.Information gathered on the catch of target and incidentally taken species will allow the applicant to further modify the hook-and-line gear targeting rockfish species.

The applicant has requested the following amounts of target and incidental catch species: 50 metric tons (mt) each of Pacific ocean perch, other rockfish, and pelagic shelf rockfish; 15 mt of rougheye/shortraker rockfish; 2 mt each of thornyhead rockfish and DSR; and 10 mt each of Pacific halibut and sablefish.These levels of harvest and manner of harvest are not expected to have a significant impact on the marine environment, but the potential effects on the marine environment will be further analyzed during the application review process.

In accordance with § 679.6, NMFS has determined that the application warrants further consideration and has initiated consultation with the Council by forwarding the application to the Council for its input.The Council will consider the application during its February 2–10, 2004, meeting which will be held at the Hilton Hotel in Anchorage, Alaska.While the applicant has been invited to appear in support of the application, all interested parties may comment on the application at the meeting during public testimony.

Certain information regarding the vessel identification was not provided with the application, but will be provided as a condition of the EFP, once the vessels have been selected for the project.The NMFS Regional Administrator may consider and attach additional terms and conditions to the EFP that are consistent with the purpose of the experiment.Public comment may facilitate such consideration.

A copy of the application is available for review from NMFS (see **ADDRESSES**).

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

Dated: January 29, 2004.

Bruce C. Morehead.

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

[FR Doc. 04–2413 Filed 2–4–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

United States Fish and Wildlife Service

[I.D. 010904B]

Marine Mammals; File No. 1038–1693–00/PRT064776

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; U.S. Fish and Wildlife Service, Interior.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Darla Rae Ewalt, Principal Investigator, Diagnostic Bacteriology Laboratory, National Veterinary Services Laboratories, Animal and Plant Health Inspection Service, United States Department of Agriculture, 1800 Dayton Road, Ames, IA 50010, has been issued a permit to import/export marine mammal specimens from Canada for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376;

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320; and

Branch of Permits, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Jennifer Skidmore, (301)713–2289.

SUPPLEMENTARY INFORMATION: On October 9, 2003, notice was published in the **Federal Register** (68 FR 58316) that a request for a scientific research permit to import/export marine mammal specimens had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR parts 18 and 216).

Dated: January 30, 2004.

Amy C. Sloan,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

Dated: January 30, 2004.

Charlie R. Chandler,

Chief, Branch of Permits (Domestic), Division of Management Authority, U.S. Fish and Wildlife Service.

[FR Doc. 04–2416 Filed 2–4–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0090]

Federal Acquisition Regulation; Information Collection; Rights in Data and Copyrights

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0090).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning rights in data and copyrights. The clearance currently expires on May 31, 2004.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before April 5, 2004.

ADDRESSES: Submit comments including suggestions for reducing this burden to

the General Services Administration, FAR Secretariat, 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Craig Goral, Acquisition Policy Division, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

Rights in Data is a regulation which concerns the rights of the Government, and organizations with which the Government contracts, to information developed under such contracts. The delineation of such rights is necessary in order to protect the contractor's rights to not disclose proprietary data and to insure that data developed with public funds is available to the public.

The information collection burdens and recordkeeping requirements included in this regulation fall into the following four categories:

(a) A provision which is to be included in solicitations where the proposer would identify any proprietary data he would use during contract performance in order that the contracting officer might ascertain if such proprietary data should be delivered.

(b) Contract provisions which, in unusual circumstances, would be included in a contract and require a contractor to deliver proprietary data to the Government for use in evaluation of work results, or is software to be used in a Government computer. These situations would arise only when the very nature of the contractor's work is comprised of limited rights data or restricted computer software and if the Government would need to see that data in order to determine the extent of the work.

(c) A technical data certification for major systems, which requires the contractor to certify that the data delivered under the contract is complete, accurate and compliant with the requirements of the contract. As this provision is for major systems only, and few civilian agencies have such major systems, only about 30 contracts will involve this certification.

(d) The Additional Data Requirements clause, which is to be included in all contracts for experimental, developmental, research, or demonstration work (other than basic or applied research to be performed solely by a university or college where the contract amount will be $500,000 or less). The clause requires that the contractor keep all data first produced in the performance of the contract for a period of three years from the final acceptance of all items delivered under the contract. Much of this data will be in the form of the deliverables provided to the Government under the contract (final report, drawings, specifications, etc.). Some data, however, will be in the form of computations, preliminary data, records of experiments, etc., and these will be the data that will be required to be kept over and above the deliverables. The purpose of such recordkeeping requirements is to insure that the Government can fully evaluate the research in order to ascertain future activities and to insure that the research was completed and fully reported, as well as to give the public an opportunity to assess the research results and secure any additional information. All data covered by this clause is unlimited rights data paid for by the Government.

Paragraph (d) of the Rights in Data-General clause outlines a procedure whereby a contracting officer can challenge restrictive markings on data delivered. Under civilian agency contracts, limited rights data or restricted computer software is rarely, if ever, delivered to the Government. Therefore, there will rarely be any challenges. Thus, there is no burden on the public.

B. Annual Reporting Burden

Respondents: 1,100.

Responses Per Respondent: 1.

Total Responses: 1,100.

Hours Per Response: 2.7.

Total Burden hours: 2,970.

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows:

Recordkeepers: 9,000.

Hours Per Recordkeeper: 3.

Total Recordkeeping Burden Hours: 27,000.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVA), Room 4035, 1800 F Street, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control Number 9000–0090, Rights in Data and Copyrights, in all correspondence.

Dated: January 30, 2004.

Ralph J. DeStefano,

Acting Director, Acquisition Policy Division.

[FR Doc. 04–2349 Filed 2–4–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0066]

Federal Acquisition Regulation; Information Collection; Professional Employee Compensation Plan

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding a revision to an existing OMB clearance (9000–0066).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning professional employee compensation Plan. The clearance currently expires on May 31, 2004.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before April 5, 2004.

ADDRESSES: Submit comments including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0066, Professional Employee Compensation Plan, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Craig Goral, Acquisition Policy Division, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR 22.1103 requires that all professional employees shall be compensated fairly and properly. Accordingly, a total compensation plan setting forth proposed salaries and fringe benefits for professional employees with supporting data must be submitted to the contracting officer for evaluation.

B. Annual Reporting Burden

Respondents: 6,193.
Responses Per Respondent: 1.
Total Responses: 6,193.
Hours Per Response: .5.
Total Burden Hours: 3,097.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVA), Room 4035, 1800 F Street, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0066, Professional Employee Compensation Plan, in all correspondence.

Dated: January 30, 2004.

Ralph J. DeStefano,

Acting Director, Acquisition Policy Division.

[FR Doc. 04–2350 Filed 2–4–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0122]

Information Collection; Scope and Duration of Contract

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0122).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning scope and duration of contract. The clearance currently expires on May 31, 2004.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before April 5, 2004.

FOR FURTHER INFORMATION CONTACT: Jerry Zaffos, Acquisition Policy Division, GSA (202) 208–6091.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat, 1800 F Street, NW., Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0122, Scope and Duration of Contract, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

The FAR clause at 52.241–3 requires the utility to furnish the Government with a complete set of rates, terms and conditions, and any subsequently approved or proposed revisions when proposed.

B. Annual Reporting Burden

Respondents: 1,028.
Responses Per Respondent: 5.
Total Responses: 5,140.
Hours Per Response: .25.
Total Burden Hours: 1,285.

C. Annual Recordkeeping Burden

Recordkeepers: 1,000.
Hours Per Recordkeeper: 1.
Total Recordkeeping Burden Hours: 1,000.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0122, Scope and Duration of Contract, in all correspondence.

Dated: January 30, 2004.

Ralph J. DeStefano,

Acting Director, Acquisition Policy Division.

[FR Doc. 04–2351 Filed 2–4–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0135]

Federal Acquisition Regulation; Information Collection; Subcontractor Requests for Bonds

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0135).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning subcontractor requests for bonds. The clearance currently expires on May 31, 2004.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before April 5, 2004.

ADDRESSES: Submit comments including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Cecelia Davis, Acquisition Policy Division, GSA (202) 219–0202.

SUPPLEMENTARY INFORMATION:

A. Purpose

Part 28 of the FAR contains guidance related to obtaining financial protection against damages under Government contracts (*e.g.*, use of bonds, bid

guarantees, insurance etc.). Part 52 contains the texts of solicitation provisions and contract clauses. These regulations implement a statutory requirement for information to be provided by Federal contractors relating to payment bonds furnished under construction contracts which are subject to the Miller Act (40 U.S.C. 270a–270d). This collection requirement is mandated by section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Pub. L. 102–190), as amended by section 2091 of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–335). The clause at 52.228–12, Prospective Subcontractor Requests for Bonds, implements section 806(a)(3) of Public Law 102–190, as amended, which specifies that, upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of a construction contract for which a payment bond has been furnished to the United States pursuant to the Miller Act, the contractor shall promptly provide a copy of such payment bond to the requestor.

In conjunction with performance bonds, payment bonds are used in Government construction contracts to secure fulfillment of the contractor's obligations under the contract and to assure that the contractor makes all payments, as required by law, to persons furnishing labor or material in performance of the contract. This regulation provides prospective subcontractors and suppliers a copy of the payment bond furnished by the contractor to the Government for the performance of a Federal construction contract subject to the Miller Act. It is expected that prospective subcontractors and suppliers will use this information to determine whether to contract with that particular prime contractor. This information has been and will continue to be available from the Government. The requirement for contractors to provide a copy of the payment bond upon request to any prospective subcontractor or supplier under the Federal construction contract is contained in section 806(a)(3) of Public Law 102–190, as amended by sections 2091 and 8105 of Public Law 103–355.

B. Annual Reporting Burden

Respondents: 12,000.
Responses Per Respondent: 5.
Total Responses: 60,000.
Hours Per Response: .5.
Total Burden Hours: 30,000.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVA), Room 4035, 1800 F Street, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0135, Subcontractor Requests for Bonds, in all correspondence.

Dated: January 30, 2004.

Ralph J. DeStefano,

Acting Director, Acquisition Policy Division.

[FR Doc. 04–2352 Filed 2–4–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Defense Science Board Task Force on Integrated Fire Support in the Battlespace will tentatively meet in closed session on April 21–22, 2004, location to be determined. The Task Force will apply the methodology developed in the 2001 Precision Targeting Summer Study to broadly develop the system of systems required to provide truly integrated fire support.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Defense Science Board Task Force will assess: The adequacy of current and proposed munitions with respect to speed, accuracy, lethality, cost, *etc.,* to meet the spectrum of threats; Intelligence Surveillance and Reconnaissance (ISR) techniques and mechanisms to meet the needs of tactical and operational battlefield forces; the adequacy of battlefield command and control and integration techniques for tactical, operational, and strategic forces operating on the battlefield; the current impediments to a fully integrated Air, Land and Sea fire support; and the need for predictive engagement tools and derived intelligence products to guide the battlefield commander in the use of forces to shape the outcome to the desired effect.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, the meeting will be closed to the public.

January 30, 2004.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 04–2323 Filed 2–4–04; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Common Request

AGENCY: Department of the Air Force.

ACTION: Notice.

In compliance with section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Air Force announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 5, 2004.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to HQ AFSPC/LCMC, ATTN: SMSgt Jack L. Kretchek, 150 Vandenberg St Ste 1105, Peterson AFB, CO 80914–4470.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call HQ AFSPC/LCMC. Intercontinental Ballistic Missile Communications Mission Support Team, (719) 554–4057.

Title, Associated Form, and OMB Number: Intercontinental Ballistic Missile Hardened Intersite Cable Right-of-Way Landowner/Tenant Questionnaire, AF Form 3951, OMB Number 0701–0141.

Needs and Uses: The information collection requirement is used to report changes in ownership/lease information, conditions of missile cable route and associated appurtenances, and projected building/excavation projects.

The information collected is used to ensure system integrity and to maintain a close contact public relations program with involved personnel and agencies.

Affected Public: Individuals or households; farms.

Number of Respondents: 4000.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: Biennially.

Summary of Information Collection: Respondents are landowners/tenants. This form collects updated landowner/tenant information as well as data on local property conditions which could adversely affect the Hardened Intersite Cable System (HICS) such as soil erosion, projected/building projects, excavation plans, etc. This information also aids in notifying landowners/tenants when HICS preventive or corrective maintenance becomes necessary to ensure uninterrupted Intercontinental Ballistic Missile command and control capability.

Pamela Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 04–2424 Filed 2–4–04; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Request for Public Review and Comment of Changes to the Navstar GPS Space Segment/Navigation User Segment Interface Control Document (ICD)

AGENCY: Department of the Air Force, DoD.

ACTION: Notice and Request for Review/Comment of Changes to ICD-GPS–200C

SUMMARY: This notice informs the public that the Global Positioning System (GPS) Joint Program Office (JPO) proposes to revise ICD–GPS–200, Navstar GPS Space Segment/Navigation User Interfaces, to update the Letters of Exception (LOEs) currently included in the ICD. These proposed changes are described in a Proposed Interface Revision Notice (PIRN): PIRN–200C–008. The PIRN can be viewed and downloaded at the following Web site: *http://gps.losangeles.af.mil.* Select ''System Engineering'' and then ''Public Interface Control Working Group''. Hyperlinks are provided to ''PIRN–200C–008 (PDF)'' and to review instructions. Reviewers should save the PIRN to a local memory location prior to opening and performing the review.

ADDRESSES: Submit comments to SMC/GPERC, 2420 Vela Way, Suite 1467, El Segundo CA 90245–4659. A comment matrix is provided for your convenience at the Web site and is the preferred method of comment submittal. Comments may be submitted to the following Internet address: *smc.gperc@losangeles.af.mil.* Comments may also be sent by fax to 1–310–363–6387.

DATES: The suspense date for comment submittal is 18 March 2004.

FOR FURTHER INFORMATION CONTACT: GPERC at 1–310–363–2883, GPS JPO System Engineering Division, or write to the address above.

SUPPLEMENTARY INFORMATION: The civilian and military communities use the Global Positioning System, which employs a constellation of 24 satellites to provide continuously transmitted signals to enable appropriately configured GPS user equipment to produce accurate position, navigation, and time information.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 04–2423 Filed 2–4–04; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board, Notice of Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Army Science Board (ASB).

Date(s) of Meeting: 5 & 6 February 2004.

Time(s) of Meeting: 0800–1700, 5 February 2003; 0800–1700, 6 February 2003.

Place: Hilton Hotel, Crystal City, VA.

1. Agenda: The Army Science Board FY04 Summer Studies, Force Balance and FCS Urban Operations are holding a plenary meeting on 5&6 of February 2004. The meeting will be held at the Hilton Hotel in Crystal City, VA. The meeting will begin at 0800 hrs. on the 5th and will end at approximately 1700 hrs. on the 6th. For further information regarding Force Balance, please contact LTC Al Klee at (703) 601–0676 or e-mail at *Alvin.Klee@ocar.army.pentagon.mil.* For FCS Urban Operations, please contact MAJ Al Visconti at (865) 574–8798 or e-mail at *viscontiaj@ornl.gov.*

Wayne Joyner,

Program Support Specialist, Army Science Board.

[FR Doc. 04–2425 Filed 2–4–04; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Grant an Exclusive License for a U.S. Army Owned Invention to Distributed Control Factory Corporation of Pearl River, LA

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: The Department of the Army announces that, unless there is objection, it will grant an exclusive license to Distributed Control Factory Corporation of Pearl River, Louisiana, on U.S. Patent Application Serial No. 10/064,542, entitled ''System and Method for Model Based Control'', filed July 25, 2002, and on Patent Cooperation Treaty Patent Application Serial No. PCT/US03/23,540, entitled ''System and Method for Model Based Control'', filed July 25, 2003. Any license granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

DATES: File written objections by February 20, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Beam, Legal Office, AMSRD–AAR–GC, U.S. Army ARDEC, Picatinny Arsenal, NJ 07806–5000, (973) 724–3411.

SUPPLEMENTARY INFORMATION: Anyone wishing to object to the granting of this license has 15 days from the date of this notice to file written objections along with supporting evidence, if any.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 04–2496 Filed 2–4–04; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Grant an Exclusive or Partially Exclusive License to Fiber Glass Industries, Incorporated

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent.

SUMMARY: In compliance with 37 CFR Part 404 *et seq.,* the Department of the Army hereby gives notice of its intent to grant to Fiber Glass Industries, Incorporated, a corporation having its principle place of business at 69 Edson Street, Amsterdam, New York 12010, an exclusive or partially exclusive license relative to an ARL patent application (U.S. Patent Application #10/318667; ''Methods for Producing Nano-Textured Solid Surfaces'', Jensen; *et al.*).

DATES: File written objections by April 5, 2004.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–DP–T/Bldg. 459, Aberdeen Proving Ground, MD 21005–5425, Telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: Anyone wishing to object to the granting of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 04–2497 Filed 2–4–04; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a General Reevaluation Report/Supplemental Environment Impact Statement/ Environmental Impact Report for the Merced County Streams Project, Merced County, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), the Sacramento District, U.S. Army Corps of Engineers (Corps) is preparing a draft General Reevaluation Report/ Supplemental Environment Impact Statement/Environmental Impact Report (GRR/SEIS/EIR) to evaluate the opportunities to reduce flood damages and to restore riparian habitat in the City of Merced in Merced County, California. The Merced County Streams, California, project was authorized by Section 201 of the Flood Control Act of 1970 (Pub. L. 91–611). The authorized plan includes the construction of new reservoirs, enlargement of existing reservoirs, and levee and channel modifications on three stream groups in the vicinity of Merced. The non-Federal sponsor for this study is the California Reclamation Board (Board). Co-sponsoring the project with the Board is Merced County.

DATES: Submit comments regarding the study by March 13, 2004.

ADDRESSES: Send written comments and suggestions concerning this study to Donald Lash, U.S. Army Corps of Engineers, Sacramento District, Attn: Planning Division (CESPK–PD–R), 1325 J Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Donald Lash, E-mail at *Donald.w.lash@usace.army.mil* telephone (916) 557–5172, or fax (916) 557–5138.

SUPPLEMENTARY INFORMATION:

1. *Public Involvement:* The study will be coordinated between Federal, State, and local governments; local stakeholders; special interest groups; and any other interested individuals and organization. The Corps held a public meeting to discuss the scope of the draft GRR/SEIS/EIR in January 2004. The meeting place, date and time was advertised in advance in local newspapers, and meeting announcement letters were sent to interested parties. The purpose of this meeting is to involve local stakeholders and the public early in the study process. The meeting collected public input regarding the study scope, historic and current problems, and potential opportunities. All public comments were documented for future consideration and reference. Written comments may also be submitted via mail (*see* **DATES**) and should be directed to Donald Lash at the address listed above. The Corps intents to issue the draft GRR/SEIS/EIR in the summer of 2007. The Corps will announce availability of the draft document in the **Federal Register** and other media, and will provide the public, organizations, and agencies with an opportunity to submit comments, which will be addressed in the final GRR/SEIS/EIR.

2. *Project Information:* The Merced County Streams Project is located in the eastern portion of the San Joaquin Valley, between the Merced and Chowchilla Rivers, in Merced and Mariposa Counties, California. The study area lies east and north of the city of Merced, with downstream channels along Fahrens and Black Rascal Creeks, downstream to Santa Fe Drive. Existing flood control facilities consist of flood retention dams on Burns, Bear, Castle, Owens, and Mariposa Creeks, Black Rascal and Owens Diversion Canals, and channel improvements on associated streams. These facilities protect 16,000 acres of land from flooding and reduce the peak flood flows into the San Joaquin River.

3. *Proposed Action:* The project is undergoing a general reevaluation study to (1) redefine the flood problems and risks in the Merced County Streams project area by updating hydrology and flood plains, physical, biological and socioeconomic conditions; (2) reevaluate alternatives for reducing flood damages in the area; and (3) reaffirm the Federal interest by recommending a plan that is economically feasible. The results of this study will be presented in the GRR/ SEIS/EIR. The formulation and evaluation of alternatives, benefits and costs, and implementation requirements will be presented in the GRR/SEIS/EIR.

4. *Alternatives.* In addition to the No Action, other potential alternatives to reduce flood damages include a combination of the following components: Raise Bear Dam; install a series of detention basins/seasonal wetland habitat near Fahren's Creek, Cottonwood Creek and/or Black Rascal Creek; raise the existing levees along Black Rascal and Fahren Creeks confluence and/or Bear Creek; build setback levees on Black Rascal Creek; improve existing channels along Black Rascal and Fahren's Creeks confluence and/or Bear Creek, and install a bypass channel off of Bear creek to divert excess flows into wetlands south of Merced.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 04–2498 Filed 2–4–04; 8:45 am]

BILLING CODE 3710–EZ–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Pearl River Watershed, MS, Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The primary study area comprises the Pearl River Basin between River Mile (RM) 270.0 just south of Byram, MS, and RM 301.77 at the dam of Ross Barnett Reservoir. Municipalities within the study area include Jackson, Flowood, Pearl, and Richland, MS. The study area includes parts of three counties—Madison, Hinds, and Rankin. Major tributaries of the Pearl River within the study area include Richland, Caney, Lynch, Town, and Hanging Moss Creeks. The primary focus of the project is to alleviate flooding in the study area, determine the feasibility of continued Federal involvement in developing and implementing a solution, and evaluate features designed to alleviate water resource problems in the study area. The local cost-sharing project sponsor is the Rankin-Hinds Pearl River Flood and Drainage Control District.

DATES: A public scoping meeting will be held in Jackson, MS, at the Mississippi Agriculture, Forestry, and Aviation Museum, on February 23, 2004, at 6 p.m.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and Draft Environmental Impact Statement (EIS) should be directed to Ms. Karen Dove-Jackson (telephone (601) 631–7136) or Vicksburg District, 4155 Clay Street, ATTN: CEMVK–PP–PQ, Vicksburg, MS 39183–3435.

SUPPLEMENTARY INFORMATION: This project is authorized by congressional resolutions adopted May 9, 1979. These authorizations read as follows:

''Resolved by the Committee on Public Works and Transportation of the House of Representatives, United States, That the Board of Engineers for Rivers and Harbors is hereby requested to review the reports of the Chief of Engineers on Pearl River Basin, Mississippi and Louisiana, published as House Document Number 282, Ninety-Second Congress, Second Session, and other pertinent reports, with a particular view toward determining whether any further improvements for flood damage prevention and related purposes are advisable at this time. The alternatives are to be reviewed with local interests to insure a viable, locally supported project. Resolved by the Committee on Public Works and Transportation of the House of Representatives, United States, That the Board of Engineers for Rivers and Harbors is hereby requested to review the report of the Chief of Engineers on the Pearl River and Tributaries, Mississippi, contained in House Document 441, 86th Congress, and other reports with a view to determining whether measures for prevention of flood damages and related purposes are advisable at this time, in Rankin County, Mississippi. Resolved by the Committee on Environment and Public Works of the United States Senate, That the Board of Engineers for Rivers and Harbors, created under section 3 of the River and Harbor Act, approved June 13, 1902, and is hereby requested to review the reports of the Chief of Engineers on Pearl River Basin, Mississippi and Louisiana, submitted in House Document Numbered 92–282, 92nd Congress, 2nd Session, and other pertinent reports with a view to determining whether any further improvements for flood damage prevention and related purposes are warranted at this time.''

1. A reconnaissance study was initiated in 1989 and a favorable report was completed in 1990 for the Pearl River Watershed, MS, Project. The local sponsor executed a Feasibility Cost-Sharing Agreement (FCSA) with the U.S. Army Corps of Engineers (Corps) in September 1991 to pursue alternative solutions. The resulting recommended plan documented in a January 1996 draft report was a comprehensive levee system to provide protection from a flood event of 1979 magnitude. The 1979 flood event in Jackson is the maximum flood of record. The frequency of this flood in Jackson was estimated at approximately a 200-year event. Study actions were suspended in July 1998, and the final feasibility report was never completed. Lack of local support for the recommended plan, questions over operation of the Ross Barnett Reservoir, and downstream concerns over flooding and bank caving were primary issues. In 1996, local interests proposed the LeFleur Lakes Flood Control Plan, consisting of upper and lower lakes along the Pearl River south of the Ross Barnett Reservoir, as an alternative to the comprehensive levee plan. The lakes would extend from the Ross Barnett Reservoir outlet downstream along the Pearl River to approximately 1 mile southwest of Interstate 20. The combined lakes would cover approximately 4,800 acres at normal operating levels, and weirs at both the upper and lower lakes would regulate flow. The plan is supported locally by community and business leaders due to its commercial development aspects and potential for cost recovery. An independent evaluation of the LeFleur Lakes Flood Control Plan was conducted from June-December 2000 by an Architect-Engineer firm. The valuation indicated that the LeFleur Lakes Plan could reduce Pearl River flooding in the Jackson area, as would the levee plan. The Feasibility Cost Sharing Agreement, necessary for study resumption, was signed with the non-Federal sponsor, Rankin-Hinds Pearl River Flood and Drainage Control District, on 15 October 2003. Studies will include updating the previously proposed levee plans presented in the aformentioned January 1996 draft report and an analysis of the LeFleur Lakes flood control plan. Studies will also include investigations of levees for south Jackson and Richland as a component of the LeFleur Lakes Plan. The District Engineer has decided to prepare a Draft EIS to investigate measures to alleviate flooding in the study area and determine the feasibility of continued Federal involvement in developing and implementing a solution.

2. The feasibility study for Pearl River Watershed, MS, will be conducted to fully evaluate a range of alternatives to provide a comprehensive plan for flood control. Alternative development and analysis as currently planned will be limited to updating of previously proposed levee plans and an evaluation of the LeFleur Lakes Plan.

3. A public scoping meeting will be held in Jackson, MS (see **DATES**). Significant issues identified during this scoping process will be analyzed in depth in the Draft EIS. The Natural Resources Conservation Service; U.S. Forest Service; Environmental Protection Agency; U.S. Fish and Wildlife Service; Mississippi Department of Environmental Quality; and Mississippi Department of Wildlife, Fisheries and Parks will be invited to become cooperating agencies. Federally recognized Indian tribes will also be invited to become cooperators. These agencies and tribes will be asked to participate in the review of data and the feasibility report and appendixes.

4. Upon completion, the Draft EIS will be distributed for agency and public review and comment. Additionally, a public meeting will be held to present results of the Draft EIS evaluations and the recommended plan.

5. The DEIS is estimated to be completed in October of the year 2005.

Dated: January 22, 2004.

Douglas J. Kamien,

Chief, Planning, Programs, and Project Management Division.

[FR Doc. 04–2500 Filed 2–4–04; 8:45 am]

BILLING CODE 3710–PU–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Proposed Rio del Oro Project, in Sacramento County, CA, Corps Permit Application Number 199900590

AGENCY: Department of the Army, U.S. Army Corps of Engineers,DOD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps), SacramentoDistrict, will prepare a Draft Environmental ImpactStatement (DEIS) for the proposed Rio del Oro project, a proposed residential and commercial development in RanchoCordova, Sacramento County, CA. Elliot Homes, Inc. has applied for a permit to fill approximately 47 acres of waters of the United States, including vernal pools, and other wetlands.

DATES: Public scoping meetings will be held on February 26, 2004. The first meeting will be held at RanchoCordova's City Hall, at 1:30 p.m., and the second meeting will be at Mills Station, at 6:30 p.m.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by Mr. JustinCutler, (916) 557-5258,

justin.cutler@usace.army.mil, 1325J Street, Room 1480, Sacramento, CA 95814–2922.

SUPPLEMENTARY INFORMATION: The applicant has applied for a Department of the Army permit under section 404 of the Clean Water Act to construct a residential and commercial development. The proposed project would be developed on approximately 3,828 acres south of Highway 50 in RanchoCordova, Sacramento County. The project site is located south of White Rock Road, north of Douglas Road, and east of Sunrise Boulevard. The project consists of approximately 1200 high, medium and low density residential homes, 38 retail/commercial offices, 9 parks, 10 schools, and 2 wetland preserves and other open space areas. The proposed project site has a past history of grazing, landfill activities, gold mining, and rocket fuel testing. Approximately one-third of the site is grasslands, which have been used for grazing and contain vernal pool complexes and the upper reaches of Morrison Creek. Past gold mining in the 1920s and 1950s, and past landfill activities, have altered the remaining two-thirds of the site. Since mining ceased, the site was used to burn excess rocket fuel and test energetic material. Due to the rocket testing and propellant burning on the site, soil and groundwater at the site are known to contain trichloroethene (TCE) and other volatile organic compounds. The California Department of Toxic Substances Control has issued Imminent and Substantial Endangerment Orders to address the issue of TCE detected in a county well. The site has been divided into eleven primary study areas with responsibility for performing the required investigations divided between McDonnell Douglas and Aerojet General Corporation based upon previous usage. Soil and groundwater remediation continues to occur at the site.

A total of 74.61 acres of waters of the United States have been identified on the project site, including 37.02 acres of vernal pools, 20.44 acres of seasonal wetlands, 6.43 acres of riparian wetland, 6.47 acres of ponds, and 4.25 acres of stream channels. The applicant has applied to fill approximately 47 acres of these waters to construct the project. A 505-acre vernal pool/wetland preserve in the southern portion of the project, where the highest concentration of vernal pools exists on the project site, would be preserved. The preserve would contain 27.62 acres of waters of the United States. The applicant proposes to create approximately 22 acres of additional vernal pools in the preserve.

The Corps' public involvement program includes several opportunities to provide oral and written comments (See **DATES**). Affected Federal, state, local agencies, Indian tribes, and other interested private organizations and parties are invited to participate. Currently, potentially significant issues to be analyzed in depth in the DEIS include, loss of waters of the United States, including wetlands, cultural resources, biological resources, hazardous materials, air quality, surface and groundwater, water quality, noise, aesthetics, and socio-economic effects.

Except for on-site preserve alternatives, no specific on-site or off-site project alternatives have been identified. However, alternatives, including the no-project alternative, other locations and other site configurations, will be evaluated in the DEIS and in accordance with the section 404(b)(1) guidelines.

The Corps has initiated formal consultation with the U.S. Fish and Wildlife Service, under section 7 of the Endangered Species Act, for five Federally threatened or endangered species and one species proposed for listing that may be affected by the project. The Corps will also be consulting with the State Historic Preservation Officer under section 106 of the National Historic Preservation Act for potential impacts to properties listed, or potentially eligible for listing, on the National Register of Historic Places.

The Environmental Impact Statement will be prepared as a joint document with the City of Rancho Cordova. The City is the local agency responsible for preparing an Environmental Impact Report in compliance with the California Environmental Quality Act. The DEIS is expected to be released in March of 2005.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 04–2501 Filed 2–4–04; 8:45 am]

BILLING CODE 3710–EH–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information 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 April 5, 2004.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

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: January 30, 2004.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: Revision.

Title: 2005 National Household Education Surveys Program (NHES:2005).

Frequency: One-time.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 2,350.

Burden Hours: 302.

Abstract: NHES:2005 is a survey of households using random-digit-dialing and computer-assisted telephone interviewing. Three topical surveys are to be conducted in NHES:2005: Early Childhood Program Participation (ECPP), After-School Programs and Activities (ASPA), and Adult Education and Lifelong Learning (AELL). ECPP and ASPA will provide current measures of participation in early childhood education, after-school programs, and other forms of nonparental care, as well as in-home and out-of-home activities. AELL will provide in-depth information on the participation of adults in a wide range of training and education activities.

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 2444. 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 Kathy Axt at her e-mail address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 04–2355 Filed 2–4–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information 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 April 5, 2004.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

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: January 30, 2004.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Extension.

Title: Guaranty Agency Financial Report.

Frequency: Monthly, Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 612.

Burden Hours: 33,660.

Abstract: The Guaranty Agency Financial Report is used to request payments from and make payments to the Department of Education under the FFEL program authorized by Title IV, Part B of the HEA of 1965, as amended. The report is also used to monitor the agency's financial activities, including activities concerning its federal fund; operating fund and the agency's restricted account.

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 2439. 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 Joe Schubart at 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. 04–2356 Filed 2–4–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Overview Information; College Assistance Migrant Program (CAMP); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2004

Catalog of Federal Domestic Assistance (CFDA) Number: CFDA 84.149A.

DATES: *Applications Available.* February 5, 2004.

Deadline for Transmittal of Applications: April 5, 2004.

Deadline for Intergovernmental Review: June 4, 2004.

Eligible Applicants: Institutions of higher education (IHEs) or private non-profit agencies working in cooperation with IHEs, including faith-based organizations, provided that they meet all statutory and regulatory requirements.

Estimated Available Funds: $4,500,000.

Estimated Range of Awards: $150,000–$425,000.

Estimated Average Size of Awards: $350,000.

Estimated Number of Awards: 14.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the College Assistance Migrant Program (CAMP) is to provide the academic and financial support necessary to help migrant and seasonal farmworkers and their children successfully complete their first year of college.

Priority: In accordance with 34 CFR 75.105(b)(2)(ii), this priority is from section 75.225 of the Education Department General Administrative Regulations (EDGAR), which apply to this program (34 CFR 75.225).

Competitive Preference Priority—Novice Applicant

For FY 2004 this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award an additional 5 points to an application meeting this competitive priority.

This priority is:

Novice Applicant

The applicant must be a ''novice applicant'' as defined in 34 CFR 75.225.

Program Authority: 20 U.S.C. 1070d–2.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 84, 85, 86, 97, 98, and 99. (b) 34 CFR part 206. (c) the definitions of a migrant agricultural worker in 34 CFR 200.81. (d) 20 CFR part 669.110 and 669.320, respectively.

II. Award Information

Type of Award: Discretionary grants, that are awarded for a five-year grant cycle.

Estimated Available Funds: $4,500,000.

Estimated Range of Awards: $150,000–$425,000.

Estimated Average Size of Awards: $350,000.

Estimated Number of Awards: 14.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Institutions of higher education (IHEs) or private non-profit organizations, working in cooperation with IHEs, including faith-based organizations, provided that they meet all statutory and regulatory requirements.

2. *Cost Sharing or Matching:* This competition does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Mary L. Suazo, U.S. Department of Education, Office of Migrant Education, Room 3E227, 400 Maryland Ave., SW., Washington, DC 20202–6135. Telephone: (202) 260–1396 or by e-mail: *mary.suazo@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) or by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission*: Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition. Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III of the application to the equivalent of no more than 25 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative (Part III), including titles, headings, footnotes, quotations, references, and captions. However, you may single space all text in charts, tables, figures, and graphs. Charts, tables, figures, and graphs presented in the application narrative count toward the page limit.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Appendices are limited to the following: Resumes, job descriptions, letters of support, bibliography, and additional information relevant to the support of the proposal.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the budget justification narrative; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III of the application.

Our reviewers will not read any pages of your application that—

- Exceed the page limit if you apply these standards; or
- Exceed the equivalent of the page limit if you apply other standards.

3. *Submission Dates and Times*:

Applications Available: February 5, 2004.

Deadline for Transmittal of Applications: April 5, 2004. The dates and times for transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this competition. The application package also specifies the hours of operation of the e-Application Web site.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: June 4, 2004.

4. *Intergovernmental Review*: This competition is subject to Executive Order 12372 and the regulations in 34 part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions*: We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements*: Instructions and requirements for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this program.

Note: Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

Pilot Project for Electronic Submission of Applications: We are continuing to expand our pilot project for electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The College Assistance Migrant Program, CFDA Number 84.149A, is one of the programs that is included in the pilot project. If you are an applicant under the College Assistance Migrant Program

competition, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-Application). If you use e-Application, you will be entering data online while completing your application. You may not e-mail an electronic copy of a grant application to us. If you participate in this voluntary pilot project by submitting an application electronically, the data you enter online will be saved into a database. We request your participation in e-Application. We shall continue to evaluate its success and solicit suggestions for its improvement.

If you participate in e-Application, please note the following:

- Your participation is voluntary.
- When you enter the e-Application system, you will find information about its hours of operation. We strongly recommend that you do not wait until the application deadline date to initiate an e-Application package.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You may submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information–Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You e-Application must comply with any page limit requirements described in this notice.
- After you electronically submit your application, you will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application.)
- Within three working days after submitting your electronic application, fax a signed copy of the Application for Federal Education Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from e-Application.
2. The institution's Authorizing Representative must sign this form.
3. Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424.
4. Fax the signed ED 424 to the Application Control Center at (202) 260–1349.

- We may request that you give us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you elect to participate in the e-Application pilot for the College Assistance Migrant Program and you are prevented from submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

1. You are a registered user of e-Application, and you have initiated an e-Application for this competition; and

2. (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time) on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (*see* VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930.

You may access the electronic grant application for the College Assistance Migrant Program at: *http://e-grants.ed.gov.*

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are in the application package.

2. *Review and Selection Process:* Additional factors we consider in selecting an application for an award are Prior Experience. Applicants that are currently administering a CAMP project that is in the final year of the five-year grant cycle, are eligible to receive up to 15 points for prior performance in accordance with Section 418A(e) of the Higher Education Act of 1965 as amended.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may also notify you informallly.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must provide annual performance and financial reports as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* Under the Government Performance and Results Act (GPRA), measures have been developed for evaluating the overall effectiveness of the College Assistance Migrant Program. These measures are: (1) the number and percent of CAMP participants who successfully complete the first year of college, and (2) the number and percent of CAMP participants who continue to be enrolled in postsecondary education.

All grantees will be reuqired to submit an annual performance report documenting their success in addressing these performance measures.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Mary L. Suazo, U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, 400 Maryland Avenue, SW., room 3E227, Washington, DC 20202–6135. Telephone number: (202) 260–1396, or by e-mail: *mary.suazo@ed.gov.*

If you use a telecommunications device for the deaf (TDD) you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government

Printing Office (GPO) toll free at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *www.gpoaccess.gov/nara/index.html.*

Dated: February 2, 2004.

Raymond Simon,

Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 04–2518 Filed 2–4–04; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Overview Information; High School Equivalency Program (HEP); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2004

Catalog of Federal Domestic Assistance (CFDA) Number: 84.141A.

DATES: *Applications Available:* February 5, 2004.

Deadline for Transmittal of Applications: April 5, 2004.

Deadline for Intergovernmental Review: June 4, 2004.

Eligible Applicants: Institutions of higher education (IHEs) or private non-profit agencies working in cooperation with IHEs, including faith-based organizations, provided that they meet all statutory and regulatory requirements.

Estimated Available Funds: $5,900,000.

Estimated Range of Awards: $150,000–$475,000.

Estimated Average Size of Awards: $375,000.

Estimated Number of Awards: 15.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the High School Equivalency Program (HEP) is to help migrant and seasonal farmworkers and their children obtain a general education diploma (GED) that meets the guidelines for high school equivalency established by the State in which the HEP project is conducted, and to gain employment or be placed in an IHE or other postsecondary education or training.

Priority: In accordance with 34 CFR 75.105(b)(2)(ii), this priority is from section 75.225 of the Education Department General Administrative Regulations (EDGAR), which apply to this program (34 CFR 75.225).

Competitive Preference Priority—Novice Applicant

For FY 2004 this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award an additional 5 points to an application meeting this competitive priority.

This priority is:

Novice Applicant

The applicant must be a ''novice applicant'' as defined in 34 CFR 75.225.

Program Authority: 20 U.S.C. 1070d–2.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 84, 85, 86, 97, 98, and 99. (b) 34 CFR part 206. (c) the definitions of a migrant agricultural worker in 34 CFR 200.81. (d) 20 CFR part 669.110, and 669.320, respectively.

II. Award Information

Type of Award: Discretionary grants, that are awarded for a five-year grant cycle.

Estimated Available Funds: $5,900,000.

Estimated Range of Awards: $150,000—$475,000.

Estimated Average Size of Awards: $375,000.

Estimated Number of Awards: 15.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Institutions of higher education (IHEs) or private non-profit organizations, working in cooperation with IHEs, including faith-based organizations, provided that they meet all statutory and regulatory requirements.

2. *Cost Sharing or Matching:* This competition does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Mary L. Suazo, U.S. Department of Education, Office of Migrant Education, room 3E227, 400 Maryland Ave., SW., Washington, DC 20202–6135. Telephone: (202) 260–1396 or by e-mail: *mary.suazo@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) or by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition. Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III of the application to the equivalent of no more than 25 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative (Part III), including titles, headings, footnotes, quotations, references, and captions. However, you may single space all text in charts, tables, figures, and graphs. Charts, tables, figures, and graphs presented in the application narrative count toward the page limit.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Appendices are limited to the following: resumes, job descriptions, letters of support, bibliography, and additional information relevant to the support of the proposal.

The page limit does not apply to part I, the cover sheet; part II, the budget section, including the narrative budget justification; part IV, the assurances and certifications; or the one-page abstract, the resumes, that bibliography, or the letters of support. However, you must include all of the application narrative in part III.

Our reviewers will not read any pages of your application that—

- Exceed the page limit if you apply these standards; or
- Exceed the equivalent of the page limit if you apply other standards.

3. *Submission Dates and Times:*

Applications Available: February 5, 2004.

Deadline for Transmittal of Applications: April 5, 2004. The dates and times for transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this competition. The application package also specifies the hours of operation of the e-Application Web site.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: June 4, 2004.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Instructions and requirements for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this program.

Note: Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

Pilot Project for Electronic Submission of Applications: We are continuing to expand our pilot project for electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The High School Equivalency Program, CFDA Number 84.141A, is one of the programs included in the pilot project. If you are an applicant under the High School Equivalency Program you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-Application). If you use e-Application, you will be entering data online while completing your application. You may not e-mail an electronic copy of a grant application to us. If you participate in this voluntary pilot project by submitting an application electronically, the data you enter online will be saved into a database. We request your participation in e-Application. We shall continue to evaluate its success and solicit suggestions for its improvement.

If you participate in e-Application, please note the following:

- Your participation is voluntary.
- When you enter the e-Application system, you will find information about its hours of operation. We strongly recommend that you do not wait until the application deadline date to initiate an e-Application package.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.

You may submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information-Non-Construction Programs (ED 524), and all necessary assurances and certifications.

- Your e-Application must comply with any page limit requirements described in this notice.
- After you electronically submit your application, you will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application.)
- Within three working days after submitting your electronic application, fax a signed copy of the Application for Federal Education Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from e-Application.
2. The institution's Authorizing Representative must sign this form.
3. Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424 form.
4. Fax the signed ED 424 to the Application Control Center at (202) 260–1349.

- We may request that you give us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you elect to participate in the e-Application pilot for the High School Equivalency Program and you are prevented from submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

1. You are a registered user of a e-Application, and you have initiated an e-Application for this competition; and

2. (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time) on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (*see* VII. Agency Contact) or (2) the e-Grants help dest at 1–888–336–8930.

You may access the electronic grant application for the High School Equivalency Program at: *http://e-grants.ed.gov.*

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are in the application package.

2. *Review and Selection Process:* Additional factors we consider in selecting an application are Prior Experience. Applicants that are currently administering a HEP project that is in the final year of the five-year grant cycle, are eligible to receive up to 15 points for prior performance in accordance with Section 418A(e) of the Higher Education Act of 1965, as amended.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and Natural Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* Under the Government Performance and Results Act (GPRA), measures have been developed for evaluating the overall effectiveness of the Hight School Equivalency Program. These measures are: (1) The number and percent of HEP participants who complete the course of study and receive a GED, and (2) the number and percent of HEP participants with a GED who enter postsecondary education programs, career positions, or the military.

All grantees will be requried to submit an annual performance report documenting their success in addressing these performance measures.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Mary L. Suazo, U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, 400 Maryland Avenue, SW., room 3E227, Washington, DC 20202–6135. Telephone number: (202) 260–1396, or by e-mail: *mary.suazo@ed.gov.*

If you use a telecommunications device for the deaf (TDD) you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *www.gpoaccess.gov/nara/index.html.*

Dated: February 2, 2004.

Raymond Simon,

Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 04–2519 Filed 2–4–04; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Overview Information; Early Childhood Educator Professional Development Program Notice Inviting Applications for New Awards for Fiscal Year (FY) 2004

Catalog of Federal Domestic Assistance (CFDA) Number: 84.349A.

DATES: *Applications Available:* February 5, 2004.

Deadline for Transmittal of Applications: March 16, 2004.

Deadline for Intergovernmental Review: May 17, 2004.

Eligible Applicants: A *partnership* consisting of at least one entity from each of the following categories, as indicated below:

(i) One or more institutions of higher education, or other public or private entities (including faith-based organizations), that provide professional development for early childhood educators who work with children from low-income families in high-need communities.

(ii) One or more public agencies (including local educational agencies, State educational agencies, State human services agencies, and State and local agencies administering programs under the Child Care and Development Block Grant Act of 1990), Head Start agencies, or private organizations (including faith-based organizations).

(iii) If feasible, an entity with demonstrated experience in providing training to educators in early childhood education programs concerning identifying and preventing behavior problems or working with children identified as or suspected to be victims of abuse. This entity may be one of the partners described in paragraphs (i) and (ii) under *Eligible Applicants.*

A partnership may apply for these funds only if one of the partners currently provides professional development for early childhood educators working in programs located in high-need communities with children from low-income families.

Estimated Available Funds: $14,814,000.

Estimated Range of Awards: $1,000,000–$1,500,000 for one year; $2,000,000–$3,000,000 for two years.

Estimated Average Size of Awards: $1,250,000 for one year; $2,500,000 for two years.

Estimated Number of Awards: 5–15 awards.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Early ChildhoodEducator Professional Development (ECEPD) program is to enhance the school readiness of young children, particularly disadvantaged young children, and to prevent them from encountering difficulties once they enter school.

Projects funded under the ECEPD program provide high-quality, sustained, and intensive professional development for these early childhood educators in how to provide developmentally appropriate school-readiness services for preschool-age children that are based on the best available research on early childhood pedagogy and on child development and learning.

The specific activities for which recipients may use grant funds are identified in the application package.

Priorities:

This competition includes one absolute priority and one invitational priority that are explained in the following paragraphs. These priorities are as follows. In accordance with 34 CFR 75.105(b)(2)(iv), the absolute priority is from section 2151(e)(5)(A) of the Elementary and Secondary Education Act of 1965, as amended (ESEA), 20 U.S.C. 6651(e)(5)(A).

Absolute Priority: For FY 2004 this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

High-Need Communities

To provide professional development to early childhood educators who are working in early childhood programs that are located in ''high-need communities.''

An eligible applicant must demonstrate in its application narrative how it meets the statutory requirement in section 2151(e)(5)(A) of the ESEA by including relevant demographic and socioeconomic data about the ''high-need community'' in which the program is located. (*See* section 2151(e)(3)(B)(i) of the ESEA.)

''High-need community,'' as defined in section 2151(e)(9)(B) of the ESEA, means—

(a) A political subdivision of a State, or a portion of a political subdivision of a State, in which at least 50 percent of the children are from low-income families; or

(b) A political subdivision of a State that is among the 10 percent of political

subdivisions of the State having the greatest numbers of such children.

Note: The following additional terms used in or related to this absolute priority have statutory definitions that are included in the application package: ''early childhood educator,'' ''low-income family,'' and ''professional development.''

Under this competition we are particularly interested in applications that address the following priority.

Invitational Priority: For FY 2004 this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Young Children With Limited English Proficiency, Disabilities, or Other Special Needs

The Secretary is particularly interested in receiving applications that focus on providing professional development for early childhood educators who work with young children (including infants or toddlers, as applicable) with: limited English proficiency; disabilities, as identified under Parts B or C of the Individuals with Disabilities Education Act; or other special needs.

Note: The following terms used in this invitational priority have statutory definitions that are included in the application package: ''child with a disability,'' ''infants and toddlers with disabilities,'' ''limited English proficient.''

Program Authority: 20 U.S.C. 6651(e).

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $14,814,000.

Estimated Range of Awards: $1,000,000–$1,500,000 for one year; $2,000,000–$3,000,000 for two years.

Estimated Average Size of Awards: $1,250,000 for one year; $2,500,000 for two years.

Estimated Number of Awards: 5–15 awards.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

III. Eligibility Information

1. *Eligible Applicants:* A *partnership* consisting of at least one entity from each of the following categories, as indicated below:

(i) One or more institutions of higher education, or other public or private entities (including faith-based organizations), that provide professional development for early childhood educators who work with children from low-income families in high-need communities.

(ii) One or more public agencies (including local educational agencies, State educational agencies, State human services agencies, and State and local agencies administering programs under the Child Care and Development Block Grant Act of 1990), Head Start agencies, or private organizations (including faith-based organizations).

(iii) If feasible, an entity with demonstrated experience in providing training to educators in early childhood education programs concerning identifying and preventing behavior problems or working with children identified as or suspected to be victims of abuse. This entity may be one of the partners described in paragraphs (i) and (ii) under *Eligible Applicants.*

A partnership may apply for these funds only if one of the partners currently provides professional development for early childhood educators working in programs located in high-need communities with children from low-income families.

2. *Cost Sharing or Matching:* Each partnership that receives a grant under this program must provide (1) at least 50 percent of the total cost of the project for the entire grant period; and (2) at least 20 percent of the project cost for each year. The project may provide these funds from any source, other than this program, including other Federal sources. The partnership may satisfy these cost-sharing requirements by providing contributions in cash or in-kind, fairly evaluated, including plant, equipment, and services. Only allowable costs may be counted as part of the grantee's share. For example, any indirect costs over and above the allowable amount may not be counted toward a grantee's share. For additional information about indirect costs, see section IV.5. of this notice.

IV. Application and Submission Information

1. *Address To Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.349A. The public also may obtain a copy of the application package on the Department's Web site at the following address: *http://www.ed.gov/programs/eceducator/index.html.*

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed under **FOR FURTHER INFORMATION CONTACT** elsewhere in this notice. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the absolute priority and the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 30 typed pages and the additional budget narrative to the equivalent of no more than 5 typed pages, using the following standards.

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions. You may single space information in tables, charts, or graphs, and you may single space the limited Appendices.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch). You may use other point fonts for any tables, charts, graphs, and the limited Appendices, but those tables, charts, graphs and limited Appendices should be in a font size that is easily readable by the reviewers of your application.
- Any tables, charts, or graphs are included in the overall narrative page limit. The limited Appendices, including the required Partnership Agreement, are not part of these page limits.
- Appendices are limited to the following: required Partnership Agreement; and curriculum vitae of key

personnel (including key contract personnel and consultants).

• Other application materials are limited to the specific materials indicated in the application package, and may not include any video or other non-print materials.

Our reviewers will not read any pages of your application that—

• Exceed the page limits if you apply these standards; or

• Exceed the equivalent of the page limits if you apply other standards.

3. *Submission Dates and Times:*

Applications Available: February 5, 2004.

Deadline for Transmittal of Applications: March 16, 2004. The dates and times for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this program. The application package also specifies the hours of operation of the e-Application Web site.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: May 17, 2004.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:*

(a) *Indirect Costs.* For purposes of indirect cost charges, the Secretary considers all Early Childhood Educator Professional Development program grants to be ''educational training grants'' within the meaning of section 75.562(a) of EDGAR (34 CFR 75.562(a)). Consistent with 34 CFR 75.562, the indirect cost rate for any fiscal agent other than a State agency or agency of local government (such as a local educational agency) is limited to a maximum of eight percent or the amount permitted by the fiscal agent's negotiated indirect cost rate agreement, whichever is less. Further information about indirect cost rates, and on how to apply for a negotiated indirect cost rate for fiscal agents that do not yet have one, is available at the following Web site: *http://www.ed.gov/about/offices/list/ocfo/fipao/icgindex.html.*

(b) *Pre-award Costs:* For FY 2004 the Secretary exercises his authority under sections 75.263 and 74.25(e)(1) of EDGAR (34 CFR 75.263 and 74.25(e)(1)) to approve pre-award costs incurred by recipients of these grants more than 90 calendar days before the grant award. Specifically, the Secretary approves necessary and reasonable pre-award costs incurred by these grant recipients for up to 90 days before the application due date. These pre-award costs must be related to the needs assessment that applicants conduct under section 2151(e)(3)(B)(iii) of the ESEA before submitting their applications, to determine the most critical professional development needs of the early childhood educators to be served by the project and in the broader community.

Applicants incur any pre-award costs at their own risk. The Secretary is under no obligation to reimburse these costs if for any reason the applicant does not receive an award or if the award is less than anticipated and inadequate to cover these costs.

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Instructions and requirements for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this program.

Application Procedures:

Note: Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

Pilot Project for Electronic Submission of Applications:We are continuing to expand our pilot project for electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. Early Childhood Educator Professional Development—CFDA Number 84.349A is one of the programs included in the pilot project. If you are an applicant under Early Childhood Educator Professional Development, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-Application). If you use e-Application, you will be entering data online while completing your application. You may not e-mail an electronic copy of a grant application to us. If you participate in this voluntary pilot project by submitting an application electronically, the data you enter online will be saved into a database. We request your participation in e-Application. We shall continue to evaluate its success and solicit suggestions for its improvement.

If you participate in e-Application, please note the following:

• Your participation is voluntary.

• When you enter the e-Application system, you will find information about its hours of operation. We strongly recommend that you do not wait until the application deadline date to initiate an e-Application package.

• You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.

• You may submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• Your e-Application must comply with any page limit requirements described in this notice.

• After you electronically submit your application, you will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the Application for Federal Education Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from e-Application.

2. The institution's Authorizing Representative must sign this form.

3. Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424.

4. Fax the signed ED 424 to the Application Control Center at (202) 260–1349.

• We may request that you give us original signatures on other forms at a later date.Application Deadline Date Extension in Case of System Unavailability: If you elect to participate in the e-Application pilot for Early Childhood Educator Professional Development and you are prevented from submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

1. You are a registered user of e-Application, and you have initiated an e-Application for this competition; and

2. (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time) on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under For Further Information Contact (*see* VII. Agency Contact) or (2) the e-GRANTS help desk at 1–888–336–8930.

You may access the electronic grant application for Early Childhood Educator Professional Development at: *http://e-grants.ed.gov/.*

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from section 75.210 of EDGAR, 34 CFR 75.210, and are identified in the application package.

2. *Review and Selection Process:* An additional factor we consider in selecting an application for an award is geographical distribution (section 2151(e)(4)(B) of the ESEA).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* For FY 2004, grants under this program will be governed by the achievement indicators that the Secretary published in the **Federal Register** on March 31, 2003 (68 FR 15646–15648). These achievement indicators are included in the application package.

VII. Agency Contact

For Further Information Contact: Early Childhood Educator Professional Development (ECEPD) program, c/o Rosemary Fennell, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–6132. Telephone: (202) 260–0792, or via Internet: *eceprofdev@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *www.gpoaccess.gov/nara/index.html.*

Dated: February 2, 2004.

Raymond Simon,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 04–2520 Filed 2–4–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Recognition of Accrediting Agencies, State Agencies for the Approval of Public Postsecondary Vocational Education, and State Agencies for the Approval of Nurse Education

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Department of Education (The Advisory Committee).

What Is the Purpose of This Notice?

The purpose of this notice is to invite written comments on accrediting agencies and State approval agencies whose applications to the Secretary for initial or renewed recognition or whose interim reports will be reviewed at the Advisory Committee meeting to be held on June 10–11, 2004.

Where Should I Submit My Comments?

Please submit your written comments by March 22, 2004, to Ms. Carol Griffiths, Accreditation and State Liaison. You may contact her at the U.S. Department of Education, room 7105, MS 8509, 1990 K Street, NW., Washington, DC 20006, telephone: (202) 219–7011. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339.

What Is the Authority for the Advisory Committee?

The National Advisory Committee on Institutional Quality and Integrity is established under Section 114 of the Higher Education Act (HEA), as amended, 20 U.S.C. 1011c. One of the purposes of the Advisory Committee is to advise the Secretary of Education on the recognition of accrediting agencies and State approval agencies.

Will This Be My Only Opportunity To Submit Written Comments?

Yes, this notice announces the only opportunity you will have to submit written comments. However, a subsequent **Federal Register** notice will announce the meeting and invite individuals and/or groups to submit requests to make oral presentations before the Advisory Committee on the agencies that the Committee will review. That notice, however, does not offer a second opportunity to submit written comment.

What Happens to the Comments That I Submit?

We will review your comments, in response to this notice, as part of our evaluation of the agencies' compliance with the Secretary's Criteria for Recognition of Accrediting Agencies

and State Approval Agencies. The Criteria are regulations found in 34 CFR Part 602 (for accrediting agencies) and in 34 CFR Part 603 (for State approval agencies) and are found at the following site: *http://www.ed.gov/admins/finaid/accred.*

We will also include your comments with the staff analyses we present to the Advisory Committee at its June 2004 meeting. Therefore, in order for us to give full consideration to your comments, it is important that we receive them by March 22, 2004. In all instances, your comments about agencies seeking initial or continued recognition must relate to the Criteria for Recognition. In addition, your comments for any agency whose interim report is scheduled for review must relate to the issues raised and the Criteria for Recognition cited in the Secretary's letter that requested the interim report.

What Happens to Comments Received After the Deadline?

We will review any comments received after the deadline. If such comments, upon investigation, reveal that the accrediting agency is not acting in accordance with the Criteria for Recognition, we will take action either before or after the meeting, as appropriate.

What Agencies Will the Advisory Committee Review at the Meeting?

The Secretary of Education recognizes accrediting agencies and State approval agencies for public postsecondary vocational education and nurse education if the Secretary determines that they meet the Criteria for Recognition. Recognition means that the Secretary considers the agency to be a reliable authority as to the quality of education offered by institutions or programs it accredits that are encompassed within the scope of recognition he grants to the agency. The following agencies will be reviewed during the June 2004 meeting of the Advisory Committee:

Nationally Recognized Accrediting Agencies

Petitions for Initial Recognition

1. Middle States Commission on Secondary Schools (Requested scope of recognition: The accreditation of institutions with postsecondary, non-degree granting career and technology programs, in Delaware, Maryland, New Jersey, New York, Pennsylvania, the Commonwealth of Puerto Rico, the District of Columbia, and the U.S. Virgin Islands).

Petitions for Renewal of Recognition

1. Accrediting Bureau of Health Education Schools (Current scope of recognition: The accreditation of private, postsecondary allied health education institutions and institutions that offer predominantly allied health programs, private medical assistant programs, and public and private medical laboratory technician programs leading to the Associate of Applied Science and the Associate of Occupational Science degrees.) (Requested scope of recognition: The accreditation of private, postsecondary institutions in the United States offering predominantly allied health education, medical assistant programs, and medical laboratory technician programs leading to a certificate, diploma or the Associate of Applied Science and Associate of Occupational Science degrees, including those offered via distance education.)

2. Association of Theological Schools in the United States and Canada, Commission on Accrediting (Current scope of recognition: The accreditation and preaccreditation (''Candidate for Accredited Status'') of freestanding institutions, as well as schools affiliated with larger institutions, that offer graduate professional education for ministry and graduate study of theology in the United States) (Requested scope of recognition: The accreditation and preaccreditation (''Candidate for Accredited Membership'') of freestanding theological schools and seminaries and schools or programs that are parts of colleges or universities offering graduate professional and graduate academic theological education, including delivery via distance education.)

3. Commission on Massage Therapy Accreditation (Current scope of recognition: The accreditation of institutions in the United States, that award postsecondary certificates or diplomas in the practice of massage therapy and bodywork.) (Requested scope of recognition: The accreditation of institutions in the United States, that award postsecondary certificates or diplomas, including Associates degrees, in the practice of massage therapy and bodywork.)

4. North Central Association Commission on Accreditation and School Improvement, Board of Trustees (Requested scope of recognition: The accreditation and preaccreditation [''Candidacy status''] of schools offering non-degree, postsecondary education in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin, Wyoming, and in the Navajo Nation.)

Interim Reports (An interim report is a follow-up report on an accrediting agency's compliance with specific criteria for recognition that was requested by the Secretary when the Secretary granted renewed recognition to the agency.)

1. American Academy for Liberal Education.
2. American Optometric Association, Accreditation Council on Optometric Education.
3. American Speech-Language-Hearing Association, Council on Academic Accreditation in Audiology and Speech-Language Pathology.
4. National Accrediting Commission of Costmetology Arts and Sciences.
5. National Association of Schools of Art and Design, Commission on Accreditation.
6. National Association of Schools of Dance, Commission on Accreditation.
7. National Association of Schools of Music, Commission on Accreditation, Commission on Non-Degree-Granting Accreditation, Commission on Community/Junior College Accreditation.
8. National Association of Schools of Theatre, Commission on Accreditation.
9. New England Association of Schools and Colleges, Commission on Institutions of Higher Education.
10. New England Association of Schools and Colleges, Commission on Technical and Career Institutions.
11. New York State Board of Regents, the Commissioner of Education.
12. North Central Association of Colleges and Schools, The Higher Learning Commission.
13. Northwest Commission on Colleges and Universities.

State Agencies Recognized for the Approval of Public Postsecondary Vocational Education

Petition for Initial Recognition

1. Pennsylvania State Board for Vocational Education.

Petition for Renewal of Recognition

1. Puerto Rico State Agency for the Approval of Public Postsecondary Vocational, Technical Institutions and Programs.

Interim Reports

1. Oklahoma Board of Career and Technology Education.

State Agencies Recognized for the Approval of Nurse Education

Petitions for Renewal of Recognition

1. Montana State Board of Nursing.

2. North Dakota Board of Nursing.

Where Can I Inspect Petitions and Third-Party Comments Before and After the Meeting?

All petitions and those third-party comments received in advance of the meeting, will be available for public inspection and copying at the U.S. Department of Education, room 7105, MS 8509, 1990 K Street, NW., Washington, DC 20006, telephone (202) 219–7011 between the hours of 8 a.m. and 3 p.m., Monday through Friday, until May 17, 2004. They will be available again after the June 10–11 Advisory Committee meeting. An appointment must be made in advance of such inspection or copying.

How May I Obtain Electronic Access to This Document?

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gpo/nara/index.html.*

Authority: 5 U.S.C. Appendix 2.

Dated: January 30, 2004.

Sally L. Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. 04–2533 Filed 2–4–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Golden Field Office; Development and Maintenance of Testing Standards for Solar Energy Systems

AGENCY: Department of Energy.

ACTION: Issuance of Funding Opportunity Announcement DE–PS36–04GO94005.

SUMMARY: The U.S. Department of Energy (DOE) is announcing its intention to seek applications for financial assistance for development and maintenance of standards for testing solar thermal energy systems. Through a single financial assistance award (Cooperative Agreement), DOE intends to provide financial support to advance the widespread application of solar energy technologies. Applications are sought from organizations, or teams of organizations, that are experienced in the development and maintenance of testing regimes, certification of results and performance, and the establishment of relevant performance standards, particularly concerned with thermal efficiency.

DATES: The Funding Opportunity Announcement will be issued January 26, 2004.

ADDRESSES: To obtain a copy of the announcement, interested parties should access the DOE Golden Field Office Home Page at *http://www.go.doe.gov/funding.html,* click on the word ''access.'' The link will open the Industry Interactive Procurement System (IIPS) Web site and provide instructions on using IIPS. The announcement can also be obtained directly through IIPS at *http://e-center.doe.gov* by browsing opportunities by Contract Activity, for those announcements issued by the Golden Field Office. DOE will not issue paper copies of the announcement.

IIPS provides the medium for disseminating announcements, receiving financial assistance applications, and evaluating the applications in a paperless environment. The application may be submitted in the Industry Interactive Procurement System (IIPS) by the applicant or a designated representative that receives authorization from the applicant; however, the application documentation must reflect the name and title of the representative authorized to enter the applicant into a legally binding contract or agreement. The applicant or the designated representative must first register in IIPS, entering their first name and last name, then entering the company name/address of the applicant.

For questions regarding the operation of IIPS, contact the IIPS Help Desk at *IIPS_HelpDesk@e-center.doe.gov* or at (800) 683–0751.

FOR FURTHER INFORMATION CONTACT: Beth H. Dwyer, DOE Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393 or via facsimile to (303) 275–4788, or electronically to *beth.dwyer@go.doe.gov.*

Issued in Golden, Colorado, on January 26, 2004.

Jerry L. Zimmer,

Director, Office of Acquisition and Financial Assistance.

[FR Doc. 04–2399 Filed 2–4–04; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–52–000]

CenterPoint Energy Gas Transmission Company; Notice of Request Under Blanket Authorization

January 29, 2004.

Take notice that on January 14, 2004, CenterPoint Energy Gas Transmission Company (CEGT), 1111 Louisiana Street, Houston, Texas 77002–5231, filed in Docket No. CP04–52–000, a request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon certain facilities in the State of Texas, under CEGT's blanket certificate issued in Docket Nos. CP82–384–000 and 001 pursuant to section 7(C) of the Natural Gas Act, all as more fully described in the request.

Copies of this request are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

CEGT proposes to abandon, by sale and transfer, certain above-ground facilities that are currently a part of various CEGT delivery point facilities in the State of Texas as described more fully in the request. CEGT further proposes to sell and transfer these facilities to CenterPoint Energy Entex (Entex), a distribution division of CenterPoint Energy, Incorporated, at the estimated net book value, of $23,025.96. CEGT states that no services would be abandoned as a result of the proposed sale and transfer. Entex, it is said, would own and operate these facilities as part of its distribution system.

Any person or the Commission's Staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the

Commission's procedural rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's regulations under the Natural Gas Act (NGA) (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Any questions regarding this application should be directed to Lawrence O. Thomas, Director—Rates & Regulatory, CenterPoint Energy Gas Transmission Company, P.O. Box 21734, Shreveport, Louisiana 71151, or call (318) 429–2804.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–188 Filed 2–4–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–055–000]

Northwest Pipeline Corporation and Terasen Sumas Inc.; Notice of Application

January 29, 2004.

Take Notice that on January 20, 2004, Terasen Sumas Inc. (Sumas) and Northwest Pipeline Corporation (Northwest) jointly filed in Docket No. CP04–055–000, an application pursuant to section 3 of the Natural Gas Act (NGA), part 153 of the regulations of the Federal Energy Regulatory Commission (Commission), Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 0204–112 to transfer from Sumas to Northwest the authorization and Presidential Permit previously issued to Sumas in CP92–259–000. Sumas requests the Commission to issue an order transferring to Northwest the NGA section 3 authorization and Presidential Permit to operate and maintain facilities [1] at the international boundary between the United States and Canada in Whatcom County, Washington and near Sumas, Washington (the Facilities) for the importation and exportation of natural gas with Canada. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''e-Library'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676, or for TTY, (202) 502–8659.

Any questions concerning this application may be directed to Cynthia Des Brisay, Director, Business Development, Terasen Sumas Inc., 16705 Fraser Highway, Surrey, British Columbia, Canada, V3S 2X7, at (604) 592–7837 or fax (604) 592–7620 or Gary K. Kotter, Manager, Certificates and Tariffs—3C1, Northwest Pipeline Corporation, P.O. Box 58900, Salt Lake City, Utah 84158–0900, at (801) 584–7117 or fax (801) 584–7764.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10) by the comment date, below. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken; but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Protests and interventions may be filed electronically via the Internet in lieu of paper; *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying an application will be issued.*Comment Date:* February 19, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–189 Filed 2–4–04; 8:45 am]

BILLING CODE 6717–01

[1] Sumas has filed in CP04–56–000 to abandon by sale the facilities consisting of 205 feet of 24-inch diameter pipeline operated under the NGA section 3 authorization and Presidential Permit issued in CP92–259–000 to Northwest.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–056–000]

Terasen Sumas Inc.; Notice of Application

January 29, 2004.

Take notice that on January 20, 2004, Terasen Sumas Inc. (Sumas), 16705 Fraser Highway, Surrey, British Columbia, Canada, V3S 2X7 filed in Docket No CP04–056–000, an abbreviated application pursuant to section 7(b) of the Natural Gas Act (NGA), as amended, and part 157 of the regulations of the Federal Energy Regulatory Commission (Commission), to abandon its interstate pipeline facilities, located at the United States and Canadian border [1] near Sumas, Washington, by sale to Northwest Pipeline Corporation (Northwest) pursuant to a Facilities Sales Agreement, dated November 11, 2003. Sumas also requests that the Commission vacate Sumas' existing part

[1] Sumas and Northwest have filed in CP04–55–000 an application pursuant to section 3 of the Natural Gas Act (NGA), part 153 of the regulations of the Commission, Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 0204–112 to transfer from Sumas to Northwest the authorization and Presidential Permit previously issued to Sumas in CP92–259–000 to operate and maintain the above referenced facilities.

284 blanket transportation certificate. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''e-Library'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676, or for TTY, (202) 502–8659.

The Sumas facilities consist of approximately 205 feet of 24-inch pipe connecting Northwest's SIPI Meter Station to the United States/Canada border. The facilities are located within Northwest's Sumas Compressor Station site. To alleviate inefficiencies inherent with SIPI's operation of its facilities within Northwest's site, Sumas agreed to sell its facilities to Northwest. Northwest will maintain and operate the facilities as an integrated part of its SIPI Meter Station for receipt and delivery of natural gas for its part 284 Shippers. Upon sale of these facilities Sumas will no longer have interstate pipeline facilities, and will no longer be an interstate pipeline company subject to the Commission's jurisdiction.

Any questions concerning this application may be directed to Cynthia Des Brisay, Director, Business Development, Terasen Sumas Inc., 16705 Fraser Highway, Surrey, British Columbia, Canada, V3S 2X7, at (604) 592–7837 or fax (604) 592–7620.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10) by the comment date, below. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken; but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Protests and interventions may be filed electronically via the Internet in lieu of paper; *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying an application will be issued.

Comment Date: February 19,2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–190 Filed 2–4–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC04–58–000, et al.]

Louisiana Generating LLC, et al.; Electric Rate and Corporate Filings

January 28, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Louisiana Generating LLC, and Big Cajun I Peaking Power LLC

[Docket No. EC04–58–000]

Take notice that on January 23, 2004, Louisiana Generating LLC and Big Cajun I Peaking Power LLC (Applicants) filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization in connection with the transfer from Louisiana Generating LLC to Big Cajun I Peaking Power LLC of an interest in certain of Louisiana Generating LLC's jurisdictional switchyard facilities located in Louisiana.

Comment Date: February 13, 2004.

2. Pacific Gas and Electric Company

[Docket No. ER04–413–000]

Take notice that on January 20, 2004, Pacific Gas and Electric Company (PG&E) tendered for filing Generator Special Facilities Agreements (GSFA), and Generator Interconnection Agreements between PG&E and Shiloh Wind Partners, LLC (Shiloh), Dinuba Energy, Inc. (Dinuba), and Kings River Conservation District (Kings River) (collectively, Parties).

PG&E states that copies of this filing have been served upon Shiloh, Dinuba, Kings River, the California Independent System Operator Corporation and the California Public Utilities Commission.

Comment Date: February 10, 2004.

3. Pacific Gas and Electric Company

[Docket No. ER04–414–000]

Take notice that on January 20, 2004, Pacific Gas and Electric Company (PG&E) tendered for filing a Generator Special Facilities Agreement, Generator Interconnection Agreement and a Supplemental Letter Agreement between PG&E and Calpine Gilroy Cogen, L.P. (Gilroy Cogen).

PG&E states that copies of this filing have been served upon Gilroy Cogen, the California Independent System Operator Corporation and the CPUC.

Comment Date: February 10, 2004.

4. Pacific Gas and Electric Company

[Docket No. ER04–415–000]

Take notice that on January 20, 2004, Pacific Gas and Electric Company (PG&E) tendered for filing Generator Special Facilities Agreements and Generator Interconnection Agreements between PG&E and the following parties: Berry Petroleum Company—Tannehill Cogen (Berry Tannehill), Berry Petroleum Company—University Cogen (Berry University), and Big Creek Water Works, Ltd. (Big Creek).

PG&E states that copies of this filing have been served upon Berry Tannehill, Berry University, Big Creek, the California Independent System Operator Corporation and the California Public Utilities Commission.

Comment Date: February 10, 2004.

5. Public Service Company of New Mexico

[Docket No. ER04–416–000]

Take notice that on January 20, 2004, Public Service Company of New Mexico (PNM) submitted for filing certain revisions to PNM's Open Access Transmission Tariff (OATT), in compliance with the FERC ''Notice Clarifying Compliance Procedures'' in FERC Docket Nos. RM02–1–000 and RM02–1–001, to incorporate the Large

Generator Interconnection Procedures and Large Generator Interconnection Agreement, as modified consistent with regional reliability standards. PNM states that its filing is available for public inspection at its offices in Albuquerque, New Mexico.

PNM states that copies of the filing have been sent to all PNM large generation interconnection customers, to all entities that have pending large generation interconnection requests with PNM, to the New Mexico Public Regulation Commission, and to the New Mexico Attorney General.

Comment Date: February 10, 2004.

6. Xcel Energy Operating Companies

[Docket No. ER04–419–000]

Take notice that on January 20, 2004, Xcel Energy Services Inc., on behalf of Xcel Operating Companies, filed proposed revisions to the Xcel Energy Operating Companies Joint Open Access Transmission Tariff (Joint OATT) pursuant to section 205 of the Federal Power Act, 16 U.S.C. 824d (2000), and in compliance with Federal Energy Regulatory Commission's Order No. 2003, Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, 68 FR 49845 (August 19, 2003); FERC Stats. & Regs. ¶ 31,146 (2003) (Final Rule). Xcel states that the revised tariff pages incorporate into the Joint OATT the *pro forma* standard Large Generation Interconnection Procedures and the *pro forma* standard Large Generation Interconnection Agreement adopted in Order No. 2003, with certain limited variations to reflect regional differences and to provide consistency in application across the Xcel Energy Operating Companies. Xcel Energy Services, Inc. states that the proposed Joint OATT changes will affect new large generation interconnection requests (20 MW and above) to the transmission systems of Public Service Company of Colorado and Cheyenne Light, Fuel & Power Company. Xcel further states that the revised tariff sheets are proposed to be effective January 20, 2004, the date of the instant filing, pursuant to the final rule, without suspension.

Comment Date: February 10, 2004.

7. Central Maine Power Company

[Docket No. ER04–425–000]

Please take notice that on January 20, 2004, Central Maine Power Company (CMP) submitted a Notice of Assignment and Assumption with respect to the Continuing Site/Interconnection Agreement between CMP and FPL Energy Maine, Inc., FERC Electric Tariff, Fifth Revised Volume No. 3, Original Service Agreement Number 158.

Comment Date: February 10, 2004.

8. BlueStar Energy Services, Inc.

[Docket No. ER04–426–000]

Take notice that on January 20, 2004, BlueStar Energy Services, Inc. (BlueStar) petitioned the Commission for acceptance of Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

BlueStar states that it intends to engage in wholesale electric power and energy purchases and sales as a marketer and is not in the business of generating or transmitting electric power. BlueStar further states that it is an unaffiliated company.

Comment Date: February 10, 2004.

9. Nicor Energy Management Service Company

[Docket No. ER04–427–000]

Take notice that on January 20, 2004, Nicor Energy Management Services Company (NEMS), pursuant to section 35.15 of the Commission's regulations, filed with the Commission a Notice of Cancellation of its market-based wholesale electric tariff, which consists of Rate Schedule FERC No. 1 and all rate schedules and/or service agreements there under effective January 31, 2004.

Comment Date: February 10, 2004.

10. Dayton Power and Light Company

[Docket No. ER04–428–000]

Take notice that on January 20, 2004, Dayton Power and Light tendered for filing an original tariff sheet to comply with the Federal Energy Regulatory Commission's Final Rule on Standardization of Generator Interconnection Agreements and Procedures in Docket No. RM02–1–000 issued July 23, 2003.

Comment Date: February 10, 2004.

11. PacifiCorp

[Docket No. ER04–431–000]

Take notice that on January 20, 2004, PacifiCorp tendered for filing with the Federal Energy Regulatory Commission (Commission) a request for an extension of time to adopt the *pro forma* large generator interconnection tariff provisions (*pro forma*) of the Commission's Order No. 2003 or, in the alternative, a request for acceptance by the Commission of PacifiCorp's amended large generator interconnection provisions for incorporation into its open access transmission tariff. PacifiCorp states that these requests are necessary to protect its legal rights. PacifiCorp also states that copies of the filing were served upon all appropriate parties.

Comment Date: February 10, 2004.

12. Bangor Hydro-Electric Company, Central Maine Power Company, Fitchburg Gas and Electric Light Company, Maine Electric Power Company, New England Power Company, Northeast Utilities Service Company, on behalf of the Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Holyoke Power and Electric Company, Holyoke Water Power Company, NSTAR Electric and Gas Corporation, on behalf of Boston Edison Company, Cambridge Electric Light Company, and Commonwealth Electric Company the United Illuminating Company, Unitil Energy Systems, Inc., and Vermont Electric Power Company

[Docket No. ER04–432–000]

Take notice that on January 20, 2004, New England Transmission Owners, consisting of the companies listed above, in compliance with Order No. 2003, Standardization of Generator Interconnection Agreements and Procedures, FERC ¶ 31,146 (2003), jointly submitted revisions to their Open Access Transmission Tariffs for Local Network Service incorporating, with proposed regional variations, Order No. 2003's pro forma Standardized Large Generator Interconnection Procedures and Standardized Large Generator Interconnection Agreement.

Comment Date: February 10, 2004.

13. New England Power Pool

[Docket No. ER04–433–000]

Take notice that on January 20, 2004, the New England Power Pool (NEPOOL) Participants Committee submitted for filing amendments to the NEPOOL Open Access Transmission Tariff designed to include standardized generator interconnection procedures and a standardized generator interconnection agreement for interconnections to the regional transmission system in New England. NEPOOL states that these amendments are filed in compliance with the Commission's Order No. 2003.

The NEPOOL Participants Committee states that copies of these materials were sent to the NEPOOL Participants, Non-Participant Transmission Customers and the New England state governors and regulatory commissions.

Comment Date: February 10, 2004.

14. Basin Electric Power Cooperative

[Docket No. NJ04–2–000]

Take notice that on January 20, 2004, Basin Electric Power Cooperative (Basin Electric) tendered for filing its Large Generator Interconnection Procedures (LGIP) and Large Generator Interconnection Agreement (LGIA) in accordance with Order No. 2003 in compliance with Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, 68 FR 49845, FERC Stats. & Regs. ¶ 31,146, 104 FERC ¶ 61,103 (2003), order denying stay and granting extension, 105 FERC ¶ 61,043 (2003).

Basin Electric requests that the Commission allow the Revised Sheets to become effective January 20, 2004.

Basin Electric states that copies of the filing were served upon customers under the West-Side OATT and the Public Service Company of Colorado, the Iowa Utilities Board, the Minnesota Public Utilities Commission, the Montana Public Service Commission, the Nebraska Public Service Commission, the New Mexico Public Service Commission, the North Dakota Public Service Commission, the South Dakota Public Utilities Commission, and the Wyoming Public Service Commission.

Comment Date: February 10, 2004.

15. New England Power Pool and New England Independent System Operator

[Docket No. OA97–237–016]

Take notice that on January 20, 2004, the New England Power Pool (NEPOOL) Participants Committee and ISO New England Inc. (ISO–NE), pursuant to the Commission's December 22, 2003, Order in Docket Nos. OA97–237–012, –013, and –014, 105 FERC ¶ 61,317 (the December 22 Order), and pursuant to rule 1907 of the Commission's rules of practice and procedure, 18 CFR 385.1907 (2003), have jointly submitted an informational report which: (1) Provides annual transmission revenue requirement submissions for the Fitchburg Gas and Electric Light Company, revised in accordance with the December 22 Order; and, (2) states that NEPOOL and ISO–NE will implement on or before NEPOOL's April 2004 billing cycle an adjustment for previously billed charges for regional network service under the formula rate provisions of the NEPOOL Tariff for charges in effect for the NEPOOL rate years June 1, 1997, through May 31, 2000, to reflect the findings in the December 22 Order regarding an audit of those charges undertaken by NEPOOL and ISO–NE.

The NEPOOL Participants Committee and ISO–NE state that copies of these materials were sent to the NEPOOL Participants and the New England State governors and regulatory commissions.

Comment Date: February 10, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E4–185 Filed 2–4–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–12–000]

TransColorado Gas Transmission Company; Notice of Availability of the Environmental Assessment for the Proposed Compression Expansion Project

January 29, 2004.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by TransColorado Gas Transmission Company (TransColorado) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project (''Compression Expansion Project''), with appropriate mitigating measures as recommended, would not constitute a major Federal action significantly affecting the quality of the human environment. The EA evaluates alternatives to the proposal, including the no-action alternative, system alternatives, and site alternatives.

The EA assesses the potential environmental effects of the construction and operation of the proposed facilities in Colorado. The purpose of the Compression Expansion Project is to enable TransColorado to increase transportation capacity on its system by 125,000 dekatherms per day. Specifically, TransColorado would:

- Construct a new compressor station (Whitewater) in Mesa County and install one 4,735-horsepower (hp) compressor;
- Re-wheel a compressor at the existing Olathe Compressor Station in Montrose County, with no change in horsepower;
- Construct a new compressor station (Redvale) and 692 feet of 10-inch-diameter pipeline (Redvale Pipeline) in Montrose County, and install one 4,735-hp compressor;
- Install one 3,550-hp compressor at the existing Dolores Compressor Station in Dolores County;
- Construct a new compressor station (Mancos) in Montezuma County and install two 3,550-hp compressors; and
- Construct, modify, and operate certain ancillary facilities entirely within the above-identified compressor stations.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Copies of the EA have been mailed to Federal, State, and local agencies; public interest groups; interested individuals; newspapers; libraries; and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please follow these instructions carefully to ensure that your comments are received in time and properly recorded:

• Send an original and two copies of your comments to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426;

• Label one copy of the comments for the attention of Gas Branch 1, PJ–11.1;

• Reference Docket No. CP04–12–000; and

• Mail your comments so that they will be received in Washington, DC, on or before March 5, 2004.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created on-line by clicking on ''Sign-up.''

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to be a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214) [1]. Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs, at 1–866–208–FERC (1–866–208–3372) or on the FERC Internet Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance with eLibrary, the eLibrary helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notifications of these filings, document summaries, and direct links to the documents. Go to *https://ferconline.ferc.gov/,* click on ''eSubscription'' and then click on ''Sign-up.''

Magalie R. Salas,

Secretary.

[FR Doc. E4–193 Filed 2–4–04; 8:45 am]

BILLING CODE 6717–01–P

[1] Interventions may also be filed.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–51–000]

ANR Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Eastleg Expansion Project and Request for Comments on Environmental Issues and Notice of Site Visit

January 29, 2004.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Eastleg Expansion Project involving construction and operation of facilities by ANR Pipeline Company (ANR) in Washington, Brown and Ontoco Counties, Wisconsin.[1] These facilities would consist of about 8 miles of various diameter pipelines and one gas cooler at a compressor station. This EA will be used by the Commission in its decisionmaking process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with State law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice ANR provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

[1] ANR's application was filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

Summary of the Proposed Project

ANR wants to expand the capacity of its natural gas pipeline facilities to transport an additional 143,400 million British Thermal Units per day of natural gas along its 30-inch-diameter mainline in Wisconsin that would in turn serve two recently approved power plants under construction. ANR seeks authority to construct and operate:

• 4.7 miles of 30-inch-diameter pipeline to replace 4.7 miles of 14-inch-diameter pipeline, to be abandoned by removal, in Washington County, Wisconsin, including one new pig launcher and two new pig receivers (Mainline Replacement);

• 3.5 miles of 8-inch-diameter pipeline looping in Brown County, Wisconsin, including one new pig launcher and receiver and two tie-in facilities (Denmark Lateral Loop); and

• Modifications on its existing Mountain Compressor Station in Ontoco County, Wisconsin, including re-wheeling of a compressor unit and addition of a gas cooler and new piping and appurtenant facilities.

The general location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would require about 125 acres of land, of which 38 acres is currently in permanent right-of-way (ROW) easement and 87 acres would be temporary ROW easement. Following construction, about 10 acres of the temporary ROW easement would be converted to new permanent right-of-way for maintenance of the Denmark Lateral Loop. The remaining 77 acres of

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices, other than appendix 1 (maps), are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to page 6 of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

temporary ROW would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [3] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands
- Vegetation and wildlife
- Endangered and threatened species
- Cultural resources
- Air quality and noise
- Hazardous waste
- Public safety
- Land use

We will not discuss impacts to the following resource areas since they are not present in the project area, or would not be affected by the proposed facilities:

- Sole source aquifers
- Prime farmland

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section beginning on this page.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by ANR. This preliminary list of issues may be changed based on your comments and our analysis.

- Four state-protected aquifers occur in the project area, including the Sand and Gravel Aquifer, the Eastern Dolomite Aquifer, the Sandstone Aquifer, and the Crystalline Bedrock Aquifer.
- Approximately twenty water wells may be within 150 feet of the construction work area.
- Approximately 5.5 miles of cropland would be crossed by the pipelines.
- Approximately 2,000 feet of wetlands would be crossed by the pipelines.
- The Fox River would be crossed by drilling underneath the river.
- Two federally threatened species may occur in the proposed project area.
- Residential subdivisions occur along the pipeline replacement and looping, with at least 12 residences within 50 feet of the construction work area.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commenter, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, including alternative pipeline alignments, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas Branch 2.
- Reference Docket No. CP04–051–000.
- Mail your comments so that they will be received in Washington, DC on or before March 1, 2004.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created on-line.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 4). If you do not return the Information Request, you will be taken off the mailing list.

Notice of Site Visit

The OEP staff will conduct a site visit on February 17 and February 18, 2004, to inspect ANR's proposed pipeline replacement and looping for the Eastleg Expansion Project. The areas will be inspected by automobile. Representatives of ANR will accompany the OEP staff. Anyone interested in participating in the February 17 site visit for the Mainline Replacement in Washington County should meet at the Hawthorn Inn & Suites, W227 N16890 Tillie Lake Court, Jackson, Wisconsin 53037, at 2 p.m. Anyone interested in participating in the February 18 site visit for the Denmark Lateral Loop in Brown County should meet at the Riverside Shell gas station, 1010 S Broadway, DePere, Wisconsin 54115, at 12 p.m. Participants must provide their own transportation.

For additional information, contact the Commission's Office of External Affairs at 1–866–208–FERC.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities. By this notice we are also asking governmental agencies, especially those in appendix 3, to express their interest in becoming cooperating agencies for the preparation of the EA.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance with eLibrary, the eLibrary helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or at *FERCOnLineSupport@ferc.gov* The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Magalie R. Salas,

Secretary.

[FR Doc. E4–187 Filed 2–4–04; 8:45 am]

BILLING CODE 6717–01–P

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

January 29, 2004.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New major license.

b. *Project No.:* 382–026.

c. *Date Filed:* February 26, 2003.

d. *Applicant:* Southern California Edison Company.

e. *Name of Project:* Borel Hydroelectric Project.

f. *Location:* On the Kern River near the town of Bodfish, Kern County, California. The canal intake for the project is located on approximately 188 acres of Sequoia National Forest Service lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Nino J. Mascolo, Senior Attorney, Southern California Edison Co., 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770.

i. *FERC Contact:* Emily Carter at (202) 502–6512 or *Emily.Carter@ferc.gov*.

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's rules of practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene and protests may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. This application has been accepted for filing, but is not ready for environmental analysis at this time.

l. The existing Borel Hydroelectric Project (Project) consists of: (1) A 158-foot long, 4-foot-high concrete diversion dam with fishway; (2) a 61-foot-long intake structure with three 10- by 10-foot radial gates; (3) a canal inlet structure consisting of a canal intake, trash racks, and a sluice gate; (4) a flowline with a combined total length of 1,985 feet of tunnel, 1,651 feet of steel Lennon flume, 3,683 feet of steel siphon, and 51,835 feet of concrete-lined canal; (5) four steel penstock, penstocks 1 and 2 are 526 feet long and 565 feet long, respectively with varying diameters between 42 and 60 inches, penstocks 3 and 4 each have a 60-inch-diameter and extend 622 feet at which point they wye together to form a single 84-inch-diameter, 94-foot-long penstock; (6) a powerhouse with two 3,000-kW generators and a 6,000-kW generator for a total installed capacity of 12,000 kW or 12 MW; and (7) other appurtenant facilities. The Project has no storage capability and relies on water releases from Lake Isabella made by the U.S. Army Corp of Engineers.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of rules of practice and

procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Magalie R. Salas,

Secretary.

[FR Doc. E4–186 Filed 2–4–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12451–001]

SAF Hydroelectric, LLC; Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedures for Licensing and a Deadline for Submission of Final Amendments

January 29, 2004.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original major license.

b. *Project No.:* 12451–001.

c. *Date Filed:* January 20, 2004.

d. *Applicant:* SAF Hydroelectric, LLC.

e. *Name of Project:* Lower St. Anthony Falls Hydroelectric Project.

f. *Location:* On the Mississippi River, in the Town of Minneapolis, Hennepin County, Minnesota. The project affects Federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Douglas A. Spaulding, P.E., Spaulding Consultants, 1433 Utica Avenue South, Suite 162, Minneapolis, MN 55416, (952) 544–8133 or Robert Larson, 33 South 6th Street, Minneapolis, MN 55402, (612) 343–2913.

i. *FERC Contact:* Kim Carter at (202) 502–6486, or *Kim.Carter@ferc.gov*.

j. *Cooperating Agencies:* We are asking Federal, State, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item (l) below.

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for Filing Additional Study Requests and Requests for Cooperating Agency Status:* March 22, 2004.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The Commission's rules of practice require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Additional study requests may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filing. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link. After logging into the e-Filing system, select ''Comment on Filing'' from the Filing Type Selection screen and continue with the filing process.

m. *Status:* This application is not ready for environmental analysis at this time.

n. *Description of Project:* The proposed Lower St. Anthony Falls Hydroelectric Project would be located at the U.S. Army Corps of Engineers (Corps) Lower St. Anthony Falls Lock and Dam and would utilize 5.9 acres of Corps lands. The generation turbines would be located in an auxiliary lock chamber adjacent to the Corp's main lock chamber. An auxiliary building, storage yard, and buried transmission line would occupy additional Corps lands. The project would operate in a run-of-river mode, according to the Corp's operating criteria which maintains a constant water surface elevation of 750.0 m.s.l. in the 33.5-acre reservoir.

The proposed project would consist of the following features: (1) 16 turbine/generator units grouped in eight steel modules 6.2-foot-wide by 12.76 feet high having a total installed capacity of 8,980 kilowatts, each module contains 2 turbine/generator sets (two horizontal rows of 1 unit each) installed in eight stoplog slots on the auxiliary lock structure; (2) a 1,050-foot-long, 13,800-volt buried transmission line; (3) a 21-foot by 81-foot control building to house switchgear and controls; (4) a 20-foot by 30-foot project office and storage building; and (5) appurtenant facilities.

The applicant estimates that the average annual generation would be about 57,434,000 kilowatt-hours.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field (P–12451), to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph (h) above.

p. You may also register online at *http://www.ferc.gov/esubscribenow.htm* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

q. With this notice, we are initiating consultation with the Minnesota State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

r. *Procedural Schedule and Final Amendments:* The application will be

processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made if the Commission determines it necessary to do so:

Action	Tentative date
Issue Deficiency Letter	March 2004.
Issue Acceptance letter	March 2004.
Issue Scoping Document 1 for comments	May 2004.
Request Additional Information	March 2004.
Notice of application is ready for environmental analysis	January 2005.
Notice of the availability of the EA	May 2005.
Ready for Commission's decision on the application	July 2005.

Unless substantial comments are received in response to the EA, staff intends to prepare a single EA in this case. If substantial comments are received in response to the EA, a final EA will be prepared with the following modifications to the schedule.

Notice of the availability of the final EA: July 2005.

Ready for Commission's decision on the application: September 2005.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

Magalie R. Salas,

Secretary.

[FR Doc. E4–191 Filed 2–4–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2601–007, 2602–005, 2603–012, and 2619–012]

Duke Power; Notice of Intent To Prepare an Environmental Assessment and Notice of Scoping Meetings and Site Visits and Soliciting Scoping Comments

January 29, 2004.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Applications*: 3 Subsequent Minor Licenses and 1 New Major License.

b. *Project Nos.*: 2601–007, 2602–005, 2603–012, and 2619–012.

c. *Date filed*: July 22, 2003.

d. *Applicant*: Duke Power.

e. *Names of Projects*: Bryson Hydroelectric Project No. 2601–007 (Minor); Dillsboro Hydroelectric Project No. 2602–005 (Minor); Franklin Hydroelectric Project No. 2603–012 (Minor); and Mission Hydroelectric Project No. 2619–012 (Major).

f. *Location*: On the Oconaluftee River, Swain County, NC; on the Tuckasegee River, Jackson County, NC; on the Little Tennessee River, Macon County, NC; and on the Hiwassee River, Clay County, NC, respectively. The projects do not occupy any Federal lands.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: Mr. Jeffrey G. Lineberger; Manager, Hydro Licensing. Duke Power. 526 South Church Street, PO Box 1006, Charlotte, NC 28201–1006.

i. *FERC Contact*: Lee Emery, (202) 502–9379 or *lee.emery@ferc.gov* and Carolyn Holsopple, (202) 502–6407 or *carolyn.holsopple@ferc.gov*.

j. *Deadline for filing scoping comments*: March 12, 2004.

All documents (original and eight copies) should be filed with: Magalie R. Salas,Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington,DC 20426.

The Commission's rules of practice and procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. These applications are not ready for environmental analysis at this time.

l. The proposed Bryson Hydroelectric Project would operate in a run-of-river (ROR) mode, within 6 inches of full pond elevation. Project operation is dependent on available flow in the Oconaluftee River. The project consists of the following features: (1) A 341-foot-long, 36-foot-high concrete multiple arch dam, consisting of, from left to right facing downstream, (a) a concrete, non-overflow section, (b) two gravity spillway sections, each surmounted by a 16.5-foot-wide by 16-foot-high Taintor gate, and (c) an uncontrolled multiple-arch spillway with four bays; (2) a 1.5-mile-long, 38-acre impoundment at surface elevation 1828.41 feet (ft.) msl (mean sea level); (3) two intake bays, each consisting of an 8.5-foot-diameter steel intake pipe with a grated trashrack having a clear bar spacing of between 2.25 to 2.5 inches; (4) a powerhouse containing two turbine/generating units, having a total installed capacity of 980 kilowatts (kW); (5) a switchyard, with three single-phased transformers; and (6) appurtenant facilities. There is no bypassed stream reach.

Duke Power estimates that the average annual generation is 5,534,230 kilowatt hours (kWh). Duke Power uses the Bryson Project facilities to generate electricity for use by retail customers living in the Duke Power-Nantahala Area.

The proposed Dillsboro Hydroelectric Project would operate in a ROR mode, within 6 inches of full pond elevation. Project operation is dependent on flows in the Tuckasegee River, which are affected by Duke Power's East Fork and West ForkTuckasegee River projects which release flows upstream from the Dillsboro Project. TheDillsboro Project consists of the following features: (1) A 310-foot-long, 12-foot-high concrete masonry dam, consisting of, from left to right facing downstream, (a) a concrete, non-overflow section, (b) a 14-foot-long uncontrolled spillway section, (c) a 20-foot-long spillway section with two 6-foot-wide spill gates, (d) a 197-foot-long uncontrolled spillway section; (e) an 80-foot-long intake section, and (f) a concrete, non-overflow section; (2) a 0.8-mile-long,15-acre impoundment at elevation 1972.00 ft. msl; (3) two intake bays, each consisting of a reinforced concrete flume and grated trashracks having a clear bar spacing varying from 2.0 to 3.38 inches; (4) a powerhouse

containing two turbine/generating units, having a total installed capacity of 225 kW; (5) a switchyard, with three single-phased transformers; and (6) appurtenant facilities. There is no bypassed stream reach.

Duke estimates that the average annual generation is 912,330 kWh. Duke uses the Dillsboro Project facilities to generate electricity for use by retail customers living in the Duke Power-Nantahala Area. Duke has determined that the Dillsboro Project is uneconomical and a settlement recently filed with the Commission may influence whether the dam and powerhouse would be removed or not. However, Duke has not filed a license surrender application for the project or withdrawn its current license application.

The proposed Franklin Hydroelectric Project would operate in a ROR mode, within 6 inches of full pond elevation. Project operation is dependent on available flow in the Little Tennessee River. The Franklin Project consists of the following features: (1) A 462.5-foot-long, 35.5-foot-high concrete masonry dam, consisting of, from left to right facing downstream, (a) a 15-foot-long non-overflow section, (b) a 54-foot-long ungated Ogee spillway, (c) a 181.5-foot-long gated spillway section, having six gated, ogee spillway bays, (d) a 54-foot-long ungated Ogee spillway, (e) a 25-foot-long non-overflow section, and (f) a 70-foot-long non-overflow section; (2) a 4.6-mile-long, 174-acre impoundment at elevation 2000.22 ft. msl; (3) three intake bays, each consisting of a flume and grated trashracks having a clear bar spacing of 3 inches; (4) a powerhouse containing two turbine/generating units having a total installed capacity of 1,040 kW; (5) a switchyard, with a single three-phase transformer; and (6) appurtenant facilities. There is no bypasses stream reach.

Duke Power estimates that the average annual generation is 5,313,000 kWh. Duke Power uses the Franklin Project facilities to generate electricity for use by retail customers living in the Duke Power-Nantahala Area.

The proposed Mission Hydroelectric Project would operate in a ROR mode, within 6 inches of full pond elevation. Project operation is dependent on available flow in the Hiwassee River, which is regulated by TVA's Chatuge dam located upstream from the Mission Project. The Mission Project consists of the following features: (1) A 397-foot-long, 50-foot-high concrete gravity dam, consisting of, from left to right facing downstream, (a) three bulkhead sections, (b) seven ogee spillway sections, surmounted by 14-foot-high by 16-foot-wide gates, (c) four bulkhead sections, and (d) a powerhouse intake structure; (2) a 47-acre impoundment at elevation 1658.17 ft. msl; (3) three intake bays, each consisting of an 8-foot-diameter steel-cased penstock and a grated trashrack having a clear bar spacing of between 2.25 to 2.5 inches; (4) a powerhouse containing three turbine/generating units, having a total installed capacity of 1,800 kW; (5) a switchyard, with a single three-phase transformer; and (6) appurtenant facilities. There is no bypassed reach.

Duke Power estimates that the average annual generation is 8,134,370 kWh. Duke Power uses the Mission Project facilities to generate electricity for use by retail customers living in the Duke Power-Nantahala Area.

m. Copies of the applications are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, 1–202–502–8659. Copies are also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/esuscribenow.htm* to be notified via e-mail of new filings and issuances related to these or other pending projects. For assistance, contact FERC Online Support.

n. *Scoping Process*: The Commission intends to prepare a single, combined Environmental Assessment (EA) for the proposed projects in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings: FERC staff will conduct two afternoon scoping meetings and two evening scoping meetings. The evening scoping meetings are primarily for public input, while the afternoon scoping meetings will focus on resource agency, tribal, and non-governmental organization (NG) concerns. All interested individuals, organizations, Indian tribes, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Agency Scoping Meetings:

Date: Tuesday, February 10, 2004.

Time: 2 p.m.–4 p.m.

Place: Macon County Courthouse.

Address: 5 West Main Street, Franklin, NC 28734.

Date: Wednesday, February 11, 2004.

Time: 11 a.m.–1 p.m.

Place: Moss Memorial Library.

Address: 26 Anderson Street, Hayesville, NC 28904.

Public Scoping Meetings:

Date: Tuesday, February 10, 2004.

Time: 7 p.m.–10 p.m.

Place: Jackson County Administration Building.

Address: 401 Grindstaff Cove Road, Sylva, NC 28779.

Date: Wednesday, February 11, 2004.

Time: 7 p.m.–10 p.m.

Place: United Community Bank.

Address: 95 Highway 64 West, Hayesville, NC 28904.*Objectives*:

At the scoping meetings, staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially empirical data, on the resources at issue; (3) encourage statements from experts and participants on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that do not require a detailed analysis.

Procedures:

The meetings will be recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, agencies, and Indian tribes with environmental expertise and concerns are encouraged to attend the meetings and to assist Commission staff in defining and clarifying the issues to be addressed in the EA.

Copies of the Scoping Document (SD1) outlining the subject areas to be addressed in the EA are being distributed to the parties on the Commission's mailing list. Copies of the SD1 will be available at the scoping meetings or may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link (*see* item m above). These meetings are posted on the Commission's calendar located on the Internet at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Site Visits:

Duke Power and the Commission staff will conduct project site visits in two segments on February 10 and February 11, 2004. On the first day we will meet at 8 a.m. at the Bryson Project. On the

second day we will meet at 9 a.m. at the Mission Project. Site visitors will be responsible for their own transportation. Anyone with questions regarding the site visits should contact Mr. John C. Wishon of Duke Power at (828) 369–4604. The times and locations of these site visits are as follows:

Re: Bryson, Dillsboro, and Franklin Projects.

Date: Tuesday, February 10, 2004.

Time: 8 a.m.–12 p.m.

Place: Bryson Project.

Address: 310 Dam Road, Whittier, NC 28789.

Re: Mission Project.

Date: Wednesday, February 11, 2004.

Time: 9 a.m.–10 a.m.

Place: Mission Project.

Address: 1765 Mission Dam Road, Murphy, NC 28906.

Magalie R. Salas,

Secretary.

[FR Doc. E4–192 Filed 2–4–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

January 30, 2004.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary permit.

b. *Project No.:* 12484–000.

c. *Date Filed:* December 30, 2003.

d. *Applicant:* Metro Hydroelectric Company LLC.

e. *Name of Project:* Metro Hydroelectric Project

f. *Location:* The proposed project would be located at the FirstEnergy Corporation's (formally Ohio Edison) dam on the Cuyahoga River in Summit County near Akron, Ohio.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact:* Mr. M. Clifford Phillips, Metro Hydroelectric Company LLC, 3465 Arlington Road Suite E–168, Akron, Ohio 44312, (330) 256–7979.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 502–8763.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–12484–000) on any comments, protest, or motions filed.

The Commission's rules of practice and procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed run-of-river project would consist of: (1) An existing 429-foot-long, 47-foot-high dam, (2) an impoundment with a surface area of 34 acres and a storage capacity of 589 acre-feet at normal maximum water surface elevation of 912 feet mean sea level, (3) one proposed 350-foot-long, 7.5-foot-diameter penstock, (4) a proposed powerhouse containing one or more turbine/generating units with a combined installed capacity of 27.75 megawatts, (5) a proposed one-half mile-long, 12.5-kilovolt transmission line, and (6) appurtenant facilities. The project would have an average annual generation of 10,300 megawatt-hours.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

s. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

t. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E4–215 Filed 2–4–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–1345–000]

Midwest Independent Transmission System Operator, Inc.; Supplemental Notice of Technical Conference

January 30, 2004.

The January 22, 2004, Notice of Technical Conference in this proceeding indicated that a technical conference regarding the Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) proposed revision to Attachment C of its Open Access Transmission Tariff, relating to the calculation of Available Flowgate Capacity (AFC), will be held on Thursday, February 5, 2004, at 9 a.m. This conference will be held in Room 3M–1 at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All interested persons may attend the conference, and registration is not required. However, attendees are asked to contact Nat Davis at (202) 502–6171 or *nathaniel.davis@ferc.gov* so that name tags for attendees can be created.

The agenda for the technical conference is attached. The topics will commence with a presentation by the Midwest ISO followed by a discussion. The conference will focus on the questions identified in the agenda. After the conference, Commission Staff will set a schedule for Comments and Reply Comments to be filed.

Magalie R. Salas,

Secretary.

Technical Conference Agenda

9–9:30 a.m.: Introductions—Commission Staff and Midwest ISO.

9:30–12 p.m.: Questions and responses to Midwest ISO proposed AFC calculation for transmission requests that source and/or sink within the AmericanTransmission Company, LLC (ATCo) footprint (Staff's questions are set forth below).

- Is the technology available to the Midwest ISO system operator to evaluate all affected flowgates for firm and non-firm transmission requests (a) for the individual ATCo control areas and (b) for the combined ATCo control areas?
- The proposed interim treatment of non-firm transactions sourcing and sinking within the ATCo footprint would reduce granularity, as compared with the ongoing work of Midwest ISO in increasing the level of specificity and detail (granularity) employed in its flow-based analysis of transmission service requests for all other Midwest ISO transactions, both firm and non-firm. How does Midwest ISO plan to (a) ensure that non-firm transactions are approved on a first-come, first-served basis and (b) ensure that transactions that cause congestion are not approved and not scheduled?
- Midwest ISO refers to the combining of the ATCo control areas into one as a ''Virtual ATC area.'' What is a ''Virtual ATC area''? Are there any other examples within Midwest ISO or in other system of a ''Virtual ATC area''?
- Does Midwest ISO have a procedure to identify and provide transparency of non-firm transactions that take place within the ''Virtual ATC area''?
- If congestion occurs within the ''Virtual ATC area,'' how does Midwest ISO plan to relieve such congestion; (a) by curtailing specific non-firm transactions within ATCo, (b) curtailing all non-firm transactions within ATCo, (c) curtailing non-firm transactions sourcing and sinking outside ATCo, but with flowgate impacts within ATCo, or (d) other?
- Are all non-firm transactions within the ATCo footprint required to be ''tagged'' in the E-tag system, and input into the NERC Interchange Distribution Calculator (IDC)? By what process is Midwest ISO informed that such transactions have received the proper tag?
- Given that Midwest ISO has the capability of analyzing the flowgate impact of all firm and non-firm transactions within the Midwest ISO footprint, under what circumstances would transactions be approved without such analysis, and what would be the justification?
- Are all non-firm transactions sourcing and sinking in ATCo assumed to have the same impact on congestion, regardless of what a flowgate analysis, if actually performed, would indicate?
- How is congestion to be relieved for non-firm transactions that source and sink within ATCo, but impact flowgates outside ATCo?
- How is congestion to be relieved for non-firm transactions that source and sink outside ATCo, but impact flowgates within ATCo?
- What has been the recent experience of congestion within ATCo? Have there been instances when Transmission Load Relief (TLR) has been initiated? To what extent has the congestion been relieved by curtailing transactions sourcing and sinking within ATCo? outside ATCo?
- Does Midwest ISO anticipate that ''Virtual ATC area'' procedures will increase or decrease ATCo system congestion?

[FR Doc. E4–216 Filed 2–4–04; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2003–0027; FRL–7618–5]

Agency Information Collection Activities; Submission for OMB Review and Approval; Comment Request; NESHAP for Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants, EPA ICR Number 1790.03, OMB Number 2060–0361

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on January 31, 2004. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before March 8, 2004.

ADDRESSES: Submit your comments, referencing docket ID number OECA–2003–0027, to (1) EPA online using EDOCKET (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Enforcement and Compliance Docket and Information Center (EPA/DC), EPA West, Mail Code 2201T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 19, 2003 (68 FR 27059), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number OECA–2003–0027, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20460. 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 Enforcement and Compliance Docket and Information Center Docket is: (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or to view public comments, to access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When 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 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (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.*

Title: NESHAP for Phosphoric Acid Manufacturing and Phosphate Fertilizers Production Plants (40 CFR part 63, subparts AA & BB).

Abstract: Owners/operators of affected phosphoric acid manufacturing and phosphate fertilizer production must submit one-time notifications (where applicable) and annual reports on performance test results. Semiannual reports are required. In addition, a quarterly report is required when excess emissions occur.

Subparts AA and BB require respondents to install monitoring devices to measure the pressure drop and liquid flow rate for wet scrubbers. These operating parameters are permitted to vary within ranges determined concurrently with performance tests. Exceedances of the operating ranges are considered violations of the site-specific operating limits.

The standards require sources to determine and record the amount of phosphatic feed material processed or stored on a daily basis. Respondents also maintain records of specific information needed to determine that the standards are being achieved and maintained.

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, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 18 hours per response. 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.

Respondents/Affected Entities: Phosphoric Acid Manufacturing and Phosphate Fertilizers Production Plants.

Estimated Number of Respondents: 12.

Frequency of Response: Initially, quarterly, semiannually and annually.

Estimated Total Annual Hour Burden: 1,542 hours.

Estimated Total Annual Costs: $109,908 which includes $0 annualized capital/startup costs, $11,000 annual O&M costs, and $98,908 in respondent labor costs.

Changes in the Estimates: There is a decrease of 2,601 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. The decrease in burden from the most recently approved ICR is due in part to a decrease in the number of sources. Since there were no new sources, the burden was drastically reduced. The decrease was also due to a math error in the tables from the active ICR that increased the number of hours and the burden.

Dated: January 27, 2004.

Doreen Sterling,

Acting Director, Collection Strategies Division.

[FR Doc. 04–2419 Filed 2–4–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[AMS–FRL–7619–1]

California State Motor Vehicle Pollution Control Standards; Within the Scope Requests; Opportunity for Public Hearing and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of opportunity for public hearing and public comment.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has approved two separate sets of amendments to its ''Malfunction and Diagnostic System Requirements for 1994 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines (OBD II).'' The first set of amendments addresses implementation and certification concerns that had been identified since implementation of OBD II in 1994. These amendments also add several monitoring requirements and diagnostic and repair information requirements. The second set of amendments applies to 2004 and subsequent model year vehicles. These amendments, among other things, also address implementation and certification issues that have been identified since implementation of OBD II in 1994, and address monitoring requirements for new emission technologies that will be used in 2004 and subsequent model year vehicles. The amendments also include several new compliance provisions relating to OBD II monitoring requirements, including post-assembly line evaluation testing and an OBD II specific in-use testing protocol. CARB requests that EPA confirm CARB's findings that its amendments are within-the-scope of a previous waiver issued by EPA under section 209(b) of the Clean Air Act (Act), 42 U.S.C. 7543(b), which covered CARB's OBD II regulations through April 26, 1995.

DATES: EPA has tentatively scheduled a public hearing for March 22, 2004, beginning at 10 a.m. EPA will hold a hearing only if a party notifies EPA by February 20, 2004, expressing its interest in presenting oral testimony regarding CARB's requests or other issues noted in this notice. By March 1, 2004, any person who plans to attend the hearing should call David Dickinson of EPA's Certification and Compliance Division at (202) 343–9256 to learn if a hearing will be held. Any party may submit written comments by April 21, 2004.

ADDRESSES: EPA will make available for public inspection at the Air and Radiation Docket written comments received from interested parties, in addition to any testimony given at the public hearing. The official public docket is the collection of materials that 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 to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1743. The reference number for this docket is A–99–45. Parties wishing to present oral testimony at the public hearing(s) should provide written notice to David Dickinson at the address noted below; parties should also submit any written comments to David Dickinson. If EPA receives a request for a public hearing, EPA will hold the public hearing at 1310 L St, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: David Dickinson, Certification and Compliance Division (6405J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460. Telephone: (202) 343–9256, Fax: (202) 343–2804, e-mail address: *Dickinson.David@EPA.GOV.* EPA will make available an electronic copy of this Notice on the Office of Transportation and Air Quality's (OTAQ's) homepage (*http://www.epa.gov/otaq/*). Users can find this document by accessing the OTAQ homepage and looking at the path entitled ''Regulations.'' This service is free of charge, except any cost you already incur for Internet connectivity. Users can also get the official **Federal Register** version of the Notice on the day of publication on the primary Web site: (*http://www.epa.gov/docs/fedrgstr/EPA–AIR/*).

Please note that due to differences between the software used to develop the documents and the software into which the documents may be downloaded, changes in format, page length, etc., may occur. Parties wishing to present oral testimony at the public hearing should provide written notice to David Dickinson at: U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., (6405J), Washington, DC 20460. Telephone: (202) 343–9256.

SUPPLEMENTARY INFORMATION:

I. Background

Section 209(a) of the Clean Air Act, as amended (''Act''), 42 U.S.C. 7543(a), provides:

> No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.
>
> Section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a) for any state that has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the state determines that the state standards will be, in the aggregate, at least as protective of public health and welfare as applicable federal standards. The Administrator must grant a waiver unless he finds that (A) the determination of the state is arbitrary and capricious, (B) the state does not need the state standards to meet compelling and extraordinary conditions, or (C) the state standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

CARB submitted an October 30, 2003, letter to the Administrator notifying EPA that it had adopted additional amendments to its OBD II program and requesting that EPA confirm that its amendments are within the scope of the previously granted OBD II waiver. These amendments provide, among other requirements: (1) The continuation of existing emission malfunction thresholds for vehicles manufacturers in 2004 and subsequent model years with an increase in the malfunction threshold for vehicles complying with LEV II SULEV from 1.75 times the applicable standard to 2.5 times the applicable standard; (2) an update or expansion of current monitoring requirements including catalyst system monitoring for oxides of nitrogen (NO_X) conversion efficiency, secondary air system monitoring for proper air flow during vehicle warm-up for 2006 and subsequent model years, more frequent monitoring of many components to better detect for intermittent faults and a standardized methodology to determine operating frequency for several major monitors during in-use driving (*i.e.*, In-Use Performance Ratios); (3) new monitoring requirements to account for new emission-control technologies, which will, in general, be phased in starting with the 2005 or 2006 model year, including monitoring for

variable valve timing and/or control systems, cold start emission reduction strategies, and direct ozone reduction systems, and for diesel emission control systems (catalyst and particulate trap); (4) additional diagnostic information on the OBD data stream, including, but not limited to, vehicle identification numbers (VIN), catalyst temperature, distance traveled since MIL activated and other information contained in Title 13 CCR 1968.2 (f)(4.2); (5) an allowance for the new Controller Area Network (CAN) communication protocols in addition to the current communication protocols for 2004–2007 and solely for all 2008 and subsequent model years; and (6) new enforcement provisions which include (i) requirements for a sampling of assembly line production vehicles, validation testing on one to three production vehicles per model year, and a collection of in-use data from new motor vehicles during the first six months after production begins and (ii) a new ''section 1968.5'' which establishes an OBD II-specific in-use testing protocol and associated remedial provisions, including detailed in-use testing procedures for OBD II systems installed on 2004 and subsequent model year vehicles, criteria that CARB will consider in determining compliance and appropriate remedies, and procedures for manufacturers to follow in the course of remedial action.

CARB also submitted a December 24, 1997, letter to the Administrator notifying EPA that it had adopted amendments to its OBD II program. These amendments provide for, among other requirements: (1) Catalyst monitoring requirements for low emission vehicles (LEV I program) to specify a tailpipe emission level malfunction criterion in place of a front catalyst efficiency criterion with a phase-in commencing in 1998; (2) a new phase-in of the ''full-range'' misfire requirement of 50 percent in the 1997–1999 model years, 75 percent in 2000, 90 percent in 2001 and 100 percent in 2002, including a clarification of the criteria for meeting the full range detection requirements; (3) an allowance of manufacturers to demonstrate compliance with the requirement to monitor the evaporative system for leaks equal or greater in magnitude than a 0.020 inch diameter hole, with a phase-in beginning with the 2000 model year, if it can demonstrate that smaller diameter leaks will not cause evaporative emissions to exceed 1.5 times the applicable standard; (4) a positive crankcase ventilation (PCV) monitoring requirement with a phase-in from the 2002 through 2004 model years; (5) a thermostat monitoring requirement with a phase-in from the 2000 through 2002 model years; (6) an extension of the alternate fuel vehicle full compliance requirement with OBD II to the 2005 model year; (7) beginning with the 1997 model year through the 2003 model year, manufacturers could continue to have two deficiencies without being subject to penalties, unless a monitoring strategy was completely absent, in which case penalties would accrue with the first deficiency, and any additional deficiency provisions; (8) a deletion of the tampering protection provisions except those that apply to non-reprogrammable vehicles; and (9) various service information requirements.

CARB asserts, and requests that the Administrator determine, that its OBD II amendments fall within the scope of EPA's previously granted waiver, and thereby may be deemed to meet the requirements of section 209(b) of the Act set forth above.

EPA has decided in the past that when California's amendments: (1) Do not undermine the previous determination that California's standards, in the aggregate, are at least as protective of public health and welfare as comparable Federal standards; (2) do not affect the consistency of California's requirements with section 202(a) of the Act; and (3) raise no new issues affecting EPA's previous waiver determinations, then EPA's concurrence that the amendments are within the scope of a previous waiver determination is merited.

When EPA receives new waiver requests from CARB, EPA publishes a notice of opportunity for public hearing and comment and then publishes a decision in the **Federal Register** following the public comment period. In contrast, when EPA receives within the scope waiver requests from CARB, EPA traditionally publishes a decision in the **Federal Register** and concurrently invites public comment if an interested party is opposed to EPA's decision.

Because of the many elements of CARB's OBD II amendments, EPA invites comment on the following issues before making a determination for CARB's within the scope requests: (1) Should EPA consider CARB's requests as within the scope of a previous waiver request or should they be considered and examined as new waiver requests? (2) If EPA were to consider CARB's requests as within the scope requests then do California's respective amendments (a) undermine California's previous determinations that its standards, in the aggregate, are at least as protective of public health and welfare as comparable Federal standards, (b) affect the consistency of California's requirements with section 202(a) of the Act, and (c) raise new issues affecting EPA's previous waiver determinations? (3) If EPA were to consider CARB's requests as new waiver requests, then provide comment on (a) whether California's determinations that its standards are at least as protective of public health and welfare as applicable federal standards are arbitrary and capricious, (b) whether California needs separate standards to meet compelling and extraordinary conditions, and (c) whether California's standards and accompanying enforcement procedures are consistent with section 202(a) of the Act.

II. Procedures for Public Participation

If a public hearing is held, any party desiring to make an oral statement on the record should file ten (10) copies of its proposed testimony and other relevant material with David Dickinson at the address listed above no later than March 19, 2004. In addition, the party should submit 25 copies, if feasible, of the planned statement to the presiding officer at the time of the hearing.

In recognition that a public hearing is designed to give interested parties an opportunity to participate in this proceeding, there are no adverse parties as such. Statements by participants will not be subject to cross-examination by other participants without special approval by the presiding officer. The presiding officer is authorized to strike from the record statements that he or she deems irrelevant or repetitious and to impose reasonable time limits on the duration of the statement of any participant.

If a hearing is held, the Agency will make a verbatim record of the proceedings. Interested parties may arrange with the reporter at the hearing to obtain a copy of the transcript at their own expense. Regardless of whether a public hearing is held, EPA will keep the record open until April 21, 2004. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record of the public hearing, if any, relevant written submissions, and other information that he deems pertinent.

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest possible extent and label it as ''Confidential Business Information'' (CBI). If a person making comments wants EPA to base its decision in part on a submission labeled CBI, then a nonconfidential version of

the document that summarizes the key data or information should be submitted for the public docket. To ensure that proprietary information is not inadvertently placed in the docket, submissions containing such information should be sent directly to the contact person listed above and not to the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2.

If no claim of confidentiality accompanies the submission when EPA receives it, EPA will make it available to the public without further notice to the person making comments.

Dated: January 27, 2004.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 04–2422 Filed 2–4–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7618–6]

Great Lakes National Program Office FY2004–2005 Funding Guidance—Request for Initial Proposals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of funding availability.

SUMMARY: The U.S. Environmental Protection Agency's Great Lakes National Program Office (GLNPO) is requesting Initial Proposals for projects, collectively totaling up to $4,180,000, furthering protection and clean up of the Great Lakes ecosystem. Initial Proposals are requested through the USEPA Great Lakes National Program Office FY2004–2005 Funding Guidance (''Funding Guidance'').

DATES: The deadline for all Initial Proposals is 8 a.m. Central time, Monday morning, March 29, 2004.

ADDRESSES: The Funding Guidance is available on the Internet at *http://www.epa.gov/glnpo/fund/2004guid/*. It is also available from Lawrence Brail (312–886–7474/*brail.lawrence@epa.gov*).

FOR FURTHER INFORMATION CONTACT: Mike Russ, EPA–GLNPO, G–17J, 77 West Jackson Blvd., Chicago, IL 60604 (312–886–4013/*russ.michael@epa.gov*).

SUPPLEMENTARY INFORMATION: Projects should address Contaminated Sediments, Pollution Prevention and Toxics Reduction, Habitat (Ecological) Protection and Restoration, Invasive Species, Strategic or Emerging Issues, and Other Lakewide Management Plan or Remedial Action Plan (LaMP/RAP) Priorities.

Assistance is available pursuant to Clean Water Act section 104(b)(3) for activities in the Great Lakes Basin and in support of the Great Lakes Water Quality Agreement. State pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, and organizations are eligible to apply.

Dated: January 28, 2004.

Gary V. Gulezian,

Director, Great Lakes National Program Office.

[FR Doc. 04–2420 Filed 2–4–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7618–9]

Proposed Amendment to CERCLA Section 122(h) Administrative Agreement for Recovery of Response Costs for the Amenia Town Landfill Superfund Site, Town of Amenia, Dutchess County, NY

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region II, of a proposed amendment to an administrative agreement pursuant to section 122(h) of CERCLA, 42 U.S.C. 9622(h), for recovery of response costs concerning the Amenia Town Landfill Superfund Site (''Site'') located in the Town of Amenia, Dutchess County, New York. The proposed amendment would add two parties, Great Eastern Color Lithographic Corporation and H.O. Penn Machinery Company, Inc. to the prior cost recovery settlement concerning this Site. The prior settlement required the original settling parties, Town of Amenia, New York; Ashland, Inc.; BP America Inc.; Curtiss-Wright Corporation; International Business Machines Corporation; Alastair B. Martin; Estate of Edith Martin; Metal Improvement Company, Inc.; Town of Sharon, Connecticut; Syngenta Crop Protection, Inc.; TBG Services, Inc.; Unisys Corporation; and Weyerhaeuser Company to pay $361,873.17 in reimbursement of EPA's response costs at the Site. That settlement included a covenant not to sue the settling parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), in exchange for their payments. The prior settlement was the subject of a public notice published in 68 FR 48383 (August 13, 2003). No comments were received concerning the prior settlement which became effective on September 18, 2003. The proposed amendment to the prior settlement agreement would add the two additional parties who would be subject to the same obligations and benefits under the prior settlement as the original parties to that settlement and a further obligation to pay an additional $11,000 each ($22,000 total) in reimbursement of EPA's past costs. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed amendment to the prior settlement. EPA will consider all comments received and may modify or withdraw its consent to the amendment to the settlement if comments received disclose facts or considerations that indicate that the proposed amendment is inappropriate, improper or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region II, 290 Broadway, New York, New York 10007–1866.

DATES: Comments must be submitted on or before March 8, 2004.

ADDRESSES: The proposed amendment to the prior settlement is available for public inspection at EPA Region II offices at 290 Broadway, New York, New York 10007–1866. Comments should reference the Amenia Town Landfill Superfund Site located in the Town of Amenia, Dutchess County, New York, Index No. CERCLA–02–2003–2029. To request a copy of the proposed amendment to the prior settlement agreement, please contact the individual identified below.

FOR FURTHER INFORMATION CONTACT: George A. Shanahan, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 17th Floor, 290 Broadway, New York, New York 10007–1866. Telephone: 212–637–3171.

Dated: January 23, 2004.

William McCabe,

Acting Director, Emergency and Remedial Response Division, Region 2.

[FR Doc. 04–2418 Filed 2–4–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7618–7]

T.H. Agriculture & Nutrition Company Superfund Site; Re-publication Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Re-publication of Notice of Proposed Settlement.

SUMMARY: Under section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9622(h)(1), the United States Environmental Protection Agency (EPA) has entered into an Agreement with Schwerman Trucking Company concerning the T.H. Agriculture & Nutrition Company Superfund Site (Site) located in Albany, Dougherty County, Georgia. This notice replaces the notice dated December 29, 2003, which incorrectly described the Agreement. EPA will consider public comments on the Agreement until March 8, 2004. EPA may withdraw from or modify the Agreement should such comments disclose facts or considerations which indicate the Agreement is inappropriate, improper, or inadequate. Copies of the Agreement are available from:

Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Superfund Enforcement & Information Management Branch, Waste Management Division, 61 Forsyth Street, SW, Atlanta, Georgia 30303, 404/562–8887.

Written comments may be submitted to Ms. Batchelor at the above address within thirty (30) days of the date of publication.

Dated: January 28, 2004.

Anita Davis,

Acting Chief, Superfund Enforcement & Information ManagementBranch, Waste Management Division.

[FR Doc. 04–2421 Filed 2–4–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

January 23, 2004.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 8, 2004. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments regarding this Paperwork Reduction Act submission to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0132.

Title: Supplemental Information, 72–76 MHz Operational Fixed Stations.

Form No: FCC Form 1068–A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, and state, local, or tribal government.

Number of Respondents: 300.

Estimated Time Per Response: .50 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 150 hours.

Total Annual Cost: $5,000.

Needs and Uses: This form is being revised to include the FCC Registration Number (FRN) as well as updates to the Notice to Individuals (Privacy Act statement). FCC rules require that the applicant agrees to eliminate any harmful interference caused by the operations to TV reception on either channel 4 or 5 that might develop. The data is used by Commission personnel to determine if the information submitted will meet the FCC rule requirements for the assignment of frequencies in the 72–76 MHz band.

OMB Control No.: 3060–0895.

Title: Numbering Resource Optimization, CC Docket No. 99–200.

Form No: FCC Form 502.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 2,780 respondents; 5,400 responses.

Estimated Time Per Response: 1–44 hours.

Frequency of Response: On occasion, semi-annual and one-time reporting requirements, recordkeeping requirement.

Total Annual Burden: 181,890 hours.

Total Annual Cost: $7,858,650.

Needs and Uses: Carriers that receive numbering resources from the North American Numbering Plan (NANP) Administrator or that receive numbering resources from the Pooling Administrator in thousand-blocks must report forecast and utilization semi-annually. These carriers are also required to maintain detailed internal records of their number usage. Carriers must file applications for initial and growth numbering resources. The Commission has revised the instructions of the FCC Form 502 to correct the number of days in which telephone numbers can be held in the ''reserved'' category from the 45 days currently listed in the instructions under the ''Reserved'' heading to the correct 180 days. The information will be used by the Commission, state regulatory commissions, and the NANP Administrator to monitor numbering resource utilization and to project the date of area code and NANP exhaust.

OMB Control No.: 3060–0942.

Title: Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service.

Form No: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 27 respondents; 108 responses.

Estimated Time Per Response: 1–20 hours.

Frequency of Response: Annual and quarterly reporting requirements, recordkeeping requirement and third party disclosure requirement.

Total Annual Burden: 6,677 hours.

Total Annual Cost: N/A.

Needs and Uses: Commission rules implemented the Coalition for Affordable Local and Long Distance Service (CALLS) proposal, which resolves major outstanding issues concerning access charges; the pending NPRM to address implicit universal service supporting in access charges, the X-factor remand, the Low-Volume Long-Distance Users NOI, the pending NPRM on geographically deaveraging SLC's and the next scheduled price cap performance review. The Commission is seeking extension (no change) to this information collection and is submitting it to the OMB for the full three year clearance.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–2529 Filed 2–4–04; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL HOUSING FINANCE BOARD

[No. 2004–N–01]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Board (Finance Board) is seeking public comments concerning a three-year extension by the Office of Management and Budget (OMB) of the information collection entitled ''Members of the Banks.''

DATES: Interested persons may submit comments on or before April 5, 2004.

ADDRESSES: Send comments by e-mail to *comments@fhfb.gov*, by facsimile to (202) 408–2580, or by regular mail to the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, Attn: Public Comments. Comments will be available on the Finance Board Web site at *http://www.fhfb.gov/pressroom/pressroom_regs.htm.*

FOR FURTHER INFORMATION CONTACT: Jonathan F. Curtis, Senior Financial Analyst, Regulations & Research Division, Office of Supervision, by e-mail at *curtisj@fhfb.gov*, by telephone at (202) 408–2866, or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. Need for and Use of the Information Collection

Section 4 of the Federal Home Loan Bank Act (Bank Act) establishes the eligibility requirements an institution must meet in order to become a member of a Federal Home Loan Bank (Bank). *See* 12 U.S.C. 1424. Part 925 of the Finance Board regulations—the membership rule—implements section 4 of the Bank Act. *See* 12 CFR part 925. The membership rule provides uniform requirements an applicant for Bank membership must meet, and review criteria a Bank must apply to determine if an applicant satisfies the statutory and regulatory membership eligibility requirements.

More specifically, the membership rule implements the statutory eligibility requirements and provides guidance to an applicant on how it may satisfy such requirements. The rule authorizes a Bank to approve or deny each membership application subject to the statutory and regulatory requirements and permits an applicant to appeal to the Finance Board a Bank's decision to deny certification as a Bank member. The rule also imposes a continuing obligation on a current Bank member to provide information necessary to determine if it remains in compliance with applicable statutory and regulatory eligibility requirements.

The information collection, which is contained in sections 925.2 through 925.31 of the membership rule, 12 CFR 925.2–925.31, is necessary to enable a Bank to determine if a respondent satisfies the statutory and regulatory requirements to be certified initially and maintain its status as a member eligible to obtain Bank advances. The Finance Board requires and uses the information collection to determine whether to uphold or overrule a Bank's decision to deny member certification to an applicant.

The OMB number for the information collection is 3069–0004. The OMB clearance for the information collection expires on May 31, 2004.

The likely respondents are institutions that want to be certified as or are members of a Bank.

B. Burden Estimate

The Finance Board estimates the total annual average number of applicants at 300, with one response per applicant. The estimate for the average hours per application is 21.5 hours. The estimate for the annual hour burden for applicants is 6,450 hours (300 applicants × 1 response per applicant × 21.5 hours per response).

The Finance Board estimates the total annual average number of maintenance respondents, *i.e.*, current Bank members, at 8,100, with one response per member. The estimate for the average hours per maintenance response is 0.6 hours. The estimate for the annual hour burden for Bank members is 4,860 hours (8,100 members × 1 response per member × 0.6 hours per response).

The estimate for the total annual hour burden for all respondents is 11,310 hours.

C. Comment Request

The Finance Board requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of Finance Board functions, including whether the information has practical utility; (2) the accuracy of the Finance Board's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: January 30, 2004.

By the Federal Housing Finance Board.

Don Demitros,

Chief Information Officer.

[FR Doc. 04–2353 Filed 2–4–04; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated.

The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 1, 2004.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Hibernia Corporation, New Orleans, Louisiana; to acquire Coastal Bancorp, Inc., Houston, Texas, and thereby indirectly acquire Coastal Banc SSB, Houston, Texas, and thereby engage in operating a savings and loan, pursuant to section 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, January 30, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–2391 Filed 2–4–04; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Meeting: Secretary's Advisory Committee on Genetics, Health, and Society

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Secretary's Advisory Committee on Genetics, Health, and Society (SACGHS), U.S. Public Health Service. The meeting will be held from 8:30 a.m. to 5:30 p.m. on March 1, 2004 and 8 a.m. to 5 p.m. on March 2, 2004 at the Marriott Hotel Bethesda on 5151 Pooks Hill Road, in Bethesda, Maryland. The meeting will be open to the public with attendance limited to space available. The meeting also will be webcast.

The first half of the first day will be devoted to a presentation on and discussion of the work of the Committee's Inter-Meeting Task Force and priority setting process. The second half of the first day will consist of presentations on the issue of coverage and reimbursement, a possible priority area for the Committee. The second day will be entirely devoted to discussions around the top priorities and Committee action in these areas. Time will be provided each day for public comment.

Under authority of 42 U.S.C. 217a, section 222 of the Public Health Service Act, as amended, the Department of Health and Human Services established SACGHS to serve as a public forum for deliberations on the broad range of human health and societal issues raised by the development and use of genetic technologies and, as warranted, to provide advice on these issues.

The draft meeting agenda and other information about SACGHS, including information about access to the webcast, will be available at the following Web site: *http://www4.od.nih.gov/oba/sacghs.htm.* Individuals who wish to provide public comment or who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the SACGHS Executive Secretary, Ms. Sarah Carr, by telephone at (301) 496–9838 or E-mail at *sc112c@nih.gov.* The SACGHS office is located at 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892.

Dated: January 28, 2004.

LaVerne Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2389 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Guide to Community Preventive Services (GCPS) Task Force

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: Task Force on Community Preventive Services

Times and Dates:
8:30 a.m.–6:15 p.m., February 25, 2004
8 a.m.–1:45 p.m., February 26, 2004

Place: The Crowne Plaza Ravinia, 4355 Ashford Dunwoody Road, Atlanta, Georgia 30346–1521, telephone (770) 395–7700.

Status: Open to the public, limited only by the space available.

Purpose: The mission of the Task Force is to develop and publish a Guide to Community Preventive Services, which is based on the best available scientific evidence and current expertise regarding essential public health and what works in the delivery of those services.

Matters To Be Discussed: Agenda items include: briefings on administrative information, health care system interventions for obesity prevention, school based interventions for tobacco use prevention, environmental approaches to increasing physical activity, multi-component school nutrition programs for improving nutritional behavior and nutritional status of children and adolescents, group education approaches to promoting cancer screening, renewed progress on the Alcohol Chapter, folic acid reviews, implementing the vaccine coverage recommendations: Is the syringe half empty or half full? Violence Chapter.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Peter Briss, M.D.,Chief, Community Guide Branch, Division of PreventionResearch and Analytic Methods, Epidemiology Program Office,CDC, 4770 Buford Highway, M/S K–73, Atlanta, Georgia, telephone (770) 488–8189.

Persons interested in reserving a space for this meeting should call (770) 488–8189 by close of business on February 23, 2004.

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: January 30, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, CDC.

[FR Doc. 04–2394 Filed 2–4–04; 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 (SEP): Human Immunodeficiency Virus Prevention Projects for Community-Based Organizations, Program Announcement Number 04064

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): Human Immunodeficiency Virus Prevention Projects for Community-Based Organizations, Program Announcement Number 04064.

Times and Dates: 1 p.m.–4 p.m., February 22, 2004 (Open); 9 a.m.–5 p.m., February 23, 2004 (Closed); 9 a.m.–5 p.m., February 24, 2004 (Closed); 9 a.m.–5 p.m., February 25, 2004 (Closed); 9 a.m.–5 p.m., February 26, 2004 (Closed); 9 a.m.–5 p.m., February 27, 2004 (Closed); 9 a.m.–12 p.m., February 28, 2004 (Closed).

Place: The Westin Atlanta North at Perimeter Center, 7 Concourse Parkway,

Atlanta, GA 30328, Telephone (770) 395–3900.

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 Number 04064.

For Further Information Contact: Beth Wolfe, Resource Funding Analyst, National Center for HIV, STD, and TB Prevention, CDC, 1600 Clifton Road, NE., MS–E07, Atlanta, GA 30333, Telephone (404) 639–8531.

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: January 30, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04–2397 Filed 2–4–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Prospective Grant of Exclusive License: Diagnostics of Fungal Infections

AGENCY: Technology Transfer Office, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This is a notice in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i) that the Centers for Disease Control and Prevention (CDC), Technology Transfer Office, Department of Health and Human Services (DHHS), is contemplating the grant of a worldwide, limited field of use, exclusive license to practice the inventions embodied in the patent application referred to below to TNB Laboratories, Inc. (TNB) having a place of business in St. Johns, Newfoundland. The patent rights in these inventions have been assigned to the government of the United States of America. The patent application to be licensed is:

Title: ''Latent Human Tuberculosis Model, Diagnostic Antigens, and Methods of Use,'' U.S. Patent Application Serial No.: 10/250,930 (TBC).

Status: Pending.

Issue Date: N/A.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

Technology

This technology adds a new level of specificity in the identification of Tuberculosis. It can be incorporated into a device to diagnose Latent Human Tuberculosis.

ADDRESSES: Requests for a copy of this patent application, inquiries, comments, and other materials relating to the contemplated license should be directed to Andrew Watkins, Director, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, Mailstop K–79, Atlanta, GA 30341, telephone: (770) 488–8610; facsimile: (770) 488–8615. Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by CDC within sixty days of this notice will be considered. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552. A signed Confidential Disclosure Agreement (available under Forms @ *http://www.cdc.gov/tto*) will be required to receive a copy of any pending patent application.

Dated: January 29, 2004.

Joseph R. Carter,

Deputy Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 04–2396 Filed 2–4–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Reporting of Pregnancy Success Rates From AssistedReproductive Technology Programs

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

ACTION: Notice.

SUMMARY: The CDC is tasked with implementing the Fertility Clinic Success Rate and Certification Act of 1992 (FCSRCA), Public Law 102–493. As mandated by this law CDC publishes annual reports of pregnancy success rates from ART clinics and embryo laboratory certification status of these clinics. Section 2(a) of Public Law 102–493 (42 U.S.C. 263a –1) requires that each assisted reproductive technology (ART) program shall annually report to the Secretary, through the Centers for Disease Control and Prevention, (a) pregnancy success rates achieved by such ART programs, and (b) the identity of each embryo laboratory used by such ART programs, and whether the laboratory is certified or has applied for such certification under this act. Section (6) states that the Secretary, through the CDC, shall annually publish and distribute to the States and the public, pregnancy success rates reported to the Secretary under section 2(a)(1) and, in the case of an assisted reproductive technology program which failed to report one or more success rates as required under each section, the name of each such program and each pregnancy success rate which the program failed to report.

CDC first implemented the FCSRCA in 1997, and has obtained and published data for ART procedures performed in 1995, 1996, 1997, 1998, 1999 and 2000. Currently, CDC has a contract with the Society for Assisted Reproductive Technology (SART) to annually obtain a copy of their clinic-specific database. The existing contract will be used to obtain and publish data for ART procedures performed in 2001, 2002 and 2003. Details on the current process are outlined in the September 1, 2000 **Federal Register** notice (Volume 65, No. 171, pages 53310–53316).

CDC is currently in the process of selecting a contractor for the 2004, 2005, 2006, 2007, and 2008 data reporting years. We anticipate awarding the contract in February, 2004. Based on that timeframe, we anticipate that the data collection system for 2004 data reporting will be available to clinics in summer, 2004. The new contract to be awarded will cover clinic tracking, data collection and quality assurance and validation processes for ART procedures performed in 2004, 2005, 2006, 2007 and 2008. The data collection process is expected to be similar to the current data collection process (*see* September 1, 2000 **Federal Register** notice, Volume 65, No. 171, pages 53310–53316).

Under the new contract, the contractor shall furnish all personnel, facilities, equipment, supplies, and materials necessary to assist CDC to produce and publish an annual report of pregnancy success rates and embryo laboratory certification status, as

mandated by the Fertility Clinic Success Rate and Certification Act of 1992. (FCSRCA), Public Law 102–493. The Contractor shall meet the following requirements:

a. The contractor shall track all clinics performing ART in the United States and its territories that are known to be in operation for each reporting year and track all clinic reorganizations and closings.

b. The contractor shall develop a standardized data collection system, subject to Office of Management and Budget (OMB) requirements, that appropriately collects all specified data from clinics.

c. The contractor shall implement a quality assurance system each year to ensure that the data delivered to CDC are of acceptable quality and completeness.

d. The contractor shall distribute the data collection software, along with instructions, to all clinics by preset deadlines.

e. The contractor shall provide ongoing technical assistance to each site as needed by developing, implementing, and maintaining a Web site and telephone help line for technical assistance in all data collection issues.

f. The contractor shall deliver to the CDC, preliminary and final clinic and cycle specific data for each reporting year. The contractor shall deliver all necessary documentation pertaining to the annual data sets.

g. The contractor shall provide: (1) A listing of all assisted reproductive technology clinics that are included in the clinic and cycle specific datasets each reporting year; and, (2) a listing of all assisted reproductive technology clinics that were performing assisted reproductive technology cycles and were thus required to report data under FCSRCA, but failed to report such data to the contractor. The lists of reporting and non-reporting clinics shall include all clinics known to be in operation during a given reporting year.

h. Each year, the contractor shall prepare and describe a data validation quality assurance plan in conjunction with the CDC. The contractor shall perform data validation site visits, enter the data collected during these visits into an electronic data system, and provide both the electronic datafile and a hard copy of all abstraction forms to the CDC.

The amount and type of data collected will be similar to the current system requirements and will include clinic information, patient demographic information, patient history, ART cycle information, and ART outcome information. A detailed listing of current data elements and definitions for data to be collected are outlined in the **Federal Register** notice (*see* September 1, 2000 **Federal Register** notice, Volume 65, No. 171, pages 53310–53316).

The current database system is based on Microsoft Access. In this new contract, CDC will require that the contractor develop a new database system. The database system developed under this new contract must have the capability to record data for every treatment cycle of ART initiated, convert collected data to a database such as Microsoft Access (and ultimately the database must be converted into SAS System Version 8.0 or later). CDC will also require that the database developed include all programming necessary to take the data entered for each ART cycle initiated and compute all statistics needed for presentation in the report. The contractor will submit two datasets to CDC—one organized such that each ART cycle initiated is a unique observation, and one organized such that summary statistics by each clinic is a unique observation.

Each ART program should be aware that the Paperwork Reduction Act is applicable to this data collection. Under the Paperwork Reduction Act of 1995, a Federal agency shall not conduct or sponsor a collection of information from ten or more persons other than Federal employees, unless the agency has submitted a Standard Form 83, Clearance Request, to the Director of the Office of Management and Budget (OMB), and OMB has approved the collection of information. A person is not required to respond to a collection of information unless it displays a currently valid OMB control number. CDC has obtained OMB approval to collect this data under OMB control No. 0920–0556.

Currently, each ART program must use the required database system (developed by SART) to enter and submit data. Under the new contract, CDC will continue to require a single data collection system (to be developed by the contractor). In addition, each ART program currently submits its dataset output from the required software to the contractor at a central site. The contractor then compiles all the datasets from specific sites into a single dataset. That requirement will continue.

Currently, all ART programs reporting their data are subject to an annual external validation of their data collection and reporting activities by appropriately trained professionals from outside the clinic staff. This review includes but is not limited to examination of medical and laboratory records and comparison of data in the reporting database with the data in the medical record. External validation will continue with the new contract.

Every clinic will maintain a copy of all information included in the reporting database and must be able to link each patient, cycle and oocyte retrieved from the reporting database to the appropriate medical and laboratory records for external validation activities. The new contractor will provide the necessary personnel to perform the validation visits.

ART success rates will be similar to those currently presented in the annual reports and will be defined and characterized as described below:

Success rates for fresh, nondonor cycles will be defined as—

1. The rate of pregnancy after completion of ART according to the number of:

• All ovarian stimulation or monitoring procedures.

2. The rate of live birth after completion of ART according to the number of:

a. All ovarian stimulation or monitoring procedures.

b. Oocytes retrieval process.

c. Embryo (or Zygote, or oocyte) transfer procedures.

3. The rate of singleton live birth after completion of ART according to the number of:

a. All ovarian stimulation or monitoring procedures.

b. Embryo (or zygote, or oocyte) transfer procedures.

Success rates for cycles using thawed embryos and cycles using donor oocytes or embryos will be defined as—

4. The rate of live birth after completion of ART according to the number of:

• Embryo (or zygote, or oocyte) transfer procedures.

5. The rate of singleton live birth after completion of ART according to the number of:

• Embryo (or zygote, or oocyte) transfer procedures.

Reporting requirements, data elements, definitions, and success rates will be periodically reviewed and updated as new knowledge concerning ART methods and techniques becomes available.

Until a new contract has been awarded, ART programs are advised to refrain from entering 2004 data into the current data collection system. CDC will continue to provide information to all

ART programs regarding the status of the new contract and future years' data collection activities as information becomes available.

FOR FURTHER INFORMATION CONTACT: Victoria Wright, Assisted Reproductive Technology Epidemiology Unit at (770) 488–6370.

Dated: January 29, 2004.

Joseph R. Carter,

Deputy Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 04–2395 Filed 2–4–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Grants Application Data Summary Administration for Native Americans Language Application Information.

OMB: No.: New collection.

Description: Grants Application Data Summary (GADS) information is collected as part of a grant application. The GADS provides information used to prepare the legislatively mandated annual report to Congress on the status of American Indians, Native Alaskans, Native Hawaiians and Pacific Islander communities.

The purpose of this information collection is to collect information from applicants that the Administration for Native Americans can use for more accurate reporting to the Administration for Children and Families and to Congress on the status of American Indians, Native Alaskans, Native Hawaiians and Pacific Islander communities. This information collection is conducted in accordance with 42 USC 2991b–2(4) of the Native American Programs Act of 1974, as amended.

Respondents: Tribal governments, native non-profits, tribal colleges & universities.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Language GADS Form	650	1	28	18,200

Estimated Total Annual Burden Hours: 18,200.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Office. All requests should be identified by the title of the information collection. E-mail address: *rsargis@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection 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. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Washington, DC, Attn: Desk Officer for ACF, E-mail: *katherine_t._astrich@omb.eop.gov.*

Dated: January 29, 2004.

Robert Sargis,

Reports Clearance, Officer.

[FR Doc. 04–2324 Filed 2–4–04; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Grants Application Data Summary Administration for Native Americans Environmental Application Information.

OMB No.: New collection.

Description: Grants Application Data Summary (GADS) information is collected as part of a grant application. The GADS provides information used to prepare the legislatively mandated annual report to Congress on the status of American Indian and Native Alaskan communities.

This information collected from applicants will allow the Administration for Native Americans to more accurately report to the Administration for Children and Families and to Congress on the status of American Indians and Native Alaskans. This information collection is conducted in accordance with 42 USC 2991b–2(4).

Respondents: Tribal governments, native non-profits, tribal colleges & universities.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Environmental GADS Form	650	1	28	18,200

Estimated Total Annual Burden Hours: 18,200.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *rsargis@acf.hhs.gov.* All requests should be identified by the title of the information collection.

OMB Comment: OMB is required to make a decision concerning the collection 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. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk

Officer for ACF, E-mail: *katherine_t._astrich@omb.eop.gov.*

Dated: January 29, 2004.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 04–2325 Filed 2–4–04; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 1998F–0716]

Dainippon Ink and Chemicals, Inc.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 8B4619) proposing that the food additive regulations be amended to provide for the expanded safe use of a polyester-polyurethane resin-acid dianhydride adhesive in retortable pouches for use in contact with fatty food.

FOR FURTHER INFORMATION CONTACT: Mark Hepp, Center for Food Safety and Applied Nutrition (HFS–275), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3858, 202–418–3098.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 31, 1998 (63 FR 46226), FDA announced that a food additive petition (FAP 8B4619) had been filed by Dainippon Ink and Chemicals, Inc., c/o Center for Regulatory Services, 2347 Paddock Lane, Reston, VA 20191. The petition proposed to amend the food additive regulations in § 177.1390 *Laminate structures for use at temperatures of 250 °F and above* (21 CFR 177.1390) to provide for the expanded safe use of a polyester-polyurethane resin-acid dianhydride adhesive in retortable pouches for use in contact with fatty food. Dainippon Ink and Chemicals, Inc., has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: January 9, 2004.

Laura M. Tarantino,

Acting Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 04–2313 Filed 2–4–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 1996D–0041]

International Conference on Harmonisation; Guidance on Addendum to E2C Clinical Safety Data Management: Periodic Safety Update Reports for Marketed Drugs; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled ''Addendum to E2C Clinical Safety Data Management: Periodic Safety Update Reports for Marketed Drugs'' (the ICH E2C guidance). The guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). In the **Federal Register** of May 19, 1997 (62 FR 27470), FDA published the ICH E2C guidance, which recommends a unified standard for the format, content, and reporting frequency for postmarketing periodic safety update reports (PSURs) for drug and biological products. This guidance, an addendum to the ICH E2C guidance, provides additional information on the content and format of PSURs, including clarification of the objectives, general principles, and model for PSURs. This guidance is intended to help harmonize collection and submission of postmarketing clinical safety data.

DATES: You may submit written or electronic comments at any time.

ADDRESSES: Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3844, FAX: 888–CBERFAX. Send two self-addressed adhesive labels to assist the office in processing your requests. Requests and comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Min Chen, Center for Drug Evaluation and Research (HFD–430), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3159, or Miles Braun, Center for Biologics Evaluation and Research (HFM–220), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–6090.

Regarding the ICH: Michelle Limoli, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4480.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is

provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In the **Federal Register** of December 31, 2002 (67 FR 79939), FDA published a notice announcing the availability of a draft tripartite guidance entitled ''Addendum to E2C Clinical Safety Data Management: Periodic Safety Update Reports for Marketed Drugs.'' The notice gave interested persons an opportunity to submit comments by January 24, 2003.

After consideration of the comments received and revisions to the draft guidance, a final draft of the guidance was submitted to the ICH steering committee and endorsed by the three participating regulatory agencies in February 2003.

This guidance provides additional information on the objectives, general principles, and model for PSURs specified in the ICH E2C guidance, including clarification of the following topics:

- When separate PSURs will be considered appropriate,
- Synchronization of National Birthdates with the International Birthdates,
- Reporting frequency and time for submission changes, and
- Use of the reference safety information.

In addition, this guidance includes information on the following topics not previously addressed in the ICH E2C guidance.

- Summary bridging reports and addendum reports,
- Executive summaries, and
- Information on risk management programs and risk-benefit analyses.

The document should be used in conjunction with the ICH E2C guidance.

This guidance represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may, at any time, submit to the Division of Dockets Management (see **ADDRESSES**) written comments on the guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/ohrms/dockets/default.htm*, *http://www.fda.gov/cder/guidance/index.htm*, or *http://www.fda.gov/cber/publications.htm*.

Dated: January 23, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 04–2314 Filed 2–4–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004D–0041]

Draft Guidance for Industry on Providing Regulatory Submissions in Electronic Format—Content of Labeling; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—Content of Labeling.'' This draft guidance is one in a series of guidance documents on providing regulatory submissions to the FDA in electronic format. In the **Federal Register** of December 11, 2003 (68 FR 69009), FDA published a final regulation (the electronic labeling rule) requiring that the content of labeling for marketing applications be submitted in electronic format in a form that FDA can process, review, and archive. The draft guidance provides information on submitting the content of labeling in electronic format for review with new drug applications (NDAs), abbreviated new drug applications (ANDAs), and biological license applications (BLAs).

DATES: Submit written comments on the draft guidance by April 5, 2004. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. Submit telephone requests to 800–835–4709 or 301–827–1800. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Randy Levin, Center for Drug Evaluation and Research (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5411, e-mail: *levinr@cder.fda.gov*, or

Robert Yetter, Center for Biologics Evaluation and Research (HFM–25), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Background

In December 2003, FDA published the electronic labeling regulation, which requires the submission of the content of labeling in electronic format for marketing applications. The requirements of the electronic labeling rule can be found in 21 CFR 314.50(l) for NDAs, 21 CFR 314.94(d) for ANDAs, 21 CFR 601.14(b) for BLAs, and 21 CFR 314.81(b) for annual reports on marketing applications. The regulations specify that the content of labeling must be submitted electronically in a form that FDA can process, review, and archive. The regulations also state that FDA will periodically issue guidance on how to provide the electronic submission.

II. The Draft Guidance

FDA is announcing the availability of a draft guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—Content of Labeling.'' The draft guidance provides information on how to submit the content of labeling in electronic format.

In the preambles of the proposed and final rules on electronic labeling, FDA identified portable document format (PDF) as the only type of electronic file format that the agency has the ability to

accept for processing, reviewing, and archiving. Recent recommendations from the Institute of Medicine and the National Committee on Vital and Health Statistics and mandates in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173) have created a new role for electronic labeling information. Electronically formatted content of labeling will be used to support health information management initiatives such as electronic prescribing and the electronic health record (EHR).

Because FDA's current procedures using PDF are not adequate to support these initiatives, the agency is proposing to change the way it processes, reviews, and archives the content of labeling. We are proposing to adopt a new technology for exchanging information between computer systems developed by Health Level Seven (HL7), a standards development organization accredited by the American National Standards Institute. The new technology, Clinical Document Architecture (CDA), allows information to be exchanged in extensible markup language (XML) and is the standard being investigated for the EHR. FDA, working with other interested parties in HL7, has adapted CDA for labeling in a proposed HL7 standard called Structured Product Labeling (SPL).

FDA is developing an automated system using SPL for processing and managing labeling and labeling changes. When the draft guidance is finalized, absent significant objections, FDA is likely to identify SPL in public docket number 92S–0251 as a format that we can use to process, review, and archive the content of labeling. During our transition to the automated system, the agency would be able to accept the content of labeling in either PDF or SPL file format. After the automated system is implemented, PDF would no longer be a format that we can use to process, review, and archive the content of labeling. At this time, it is our goal to complete the transition to SPL format for content of labeling submissions by the end of 2004.

This draft guidance is being issued consistent with FDA's good guidance practices (GGPs) regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on providing in electronic format the content of labeling required in 21 CFR parts 314 and 601. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the draft guidance. Two copies of mailed comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Paperwork Reduction Act of 1995

The information requested for human drug and biological products in this guidance is already covered by the collection of information in ''Requirements for Submission of Labeling for Human Prescription Drugs and Biologics in Electronic Format'' (Office of Management and Budget control number 0910–0530, expiring November 30, 2006).

V. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/cder/guidance/index.htm*, *http://www.fda.gov/cber/guidelines.htm*, or at *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: January 25, 2004.

William K. Hubbard,

Associate Commissioner for Policy and Planning.

[FR Doc. 04–2536 Filed 2–3–04; 9:39 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute Proposed Collection; Comment Request Exam 2—The Jackson Heart Study, Annual Follow-Up Component

Summary: Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on September 9, 2003, pages 53177–53178, and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: The Jackson Heart Study: Annual Follow-up with Third Party Respondents. *Type of Information Collection Request:* Revision of a currently approved collection (OMB 0925–0491). *Need and Use of Information Collection:* This project involves follow-up by telephone of participants in the JHS study, review of their medical records, and interviews with doctors and family to identify disease occurrence. Interviewers will contact doctors and hospitals to ascertain participants' cardiovascular events. Information gathered will be used to further describe the risk factors, occurrence rates, and consequences of cardiovascular disease in African American men and women. The continuation of the study will allow continued assessment of subclinical coronary disease, left ventricular dysfunction, progression of carotid atherosclerosis and left ventricular hypertrophy, and responses to stress, racism, and discrimination as well as new components such as renal disease, body fat distribution and body composition, and metabolic consequences of obesity. *Frequency of Response:* One-time. *Affected Public:* Individuals or families; businesses or other for profit; not-for-profit institutions. *Affected Public:* Third party respondents (next-of-kin decedents and physicians). *Type of Respondents:* Middle aged and elderly adults; doctors and staff of hospitals and nursing homes. *Estimated Number of Respondents:* 600; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* 0.50; and *Estimated Total Annual Burden Hours Requested:* 300. The annualized cost to respondents is estimated at: $6,500. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

ESTIMATE OF ANNUAL HOUR BURDEN

Type of response	Number of respondents	Frequency of response	Average time per response	Annual hour burden
Morbidity & Mortality AFU 3rd party next-of-kin	300	1	0.5	150
Morbidity & Mortality AFU 3rd party Physicians	300	1	0.5	150
Total	600			300

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Ms. Cheryl Nelson, NIH, NHLBI, 6701 Rockledge Drive, MSC 7934, Bethesda, MD 20892–7934, or call non-toll-free number (301) 435–0707 or E-mail your request, including your address to: *NelsonCH@nhlbi.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

Dated: January 30, 2004.

Peter Savage,

Director, DECA, NH.

[FR Doc. 04–2388 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–10–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee H—Clinical Groups.

Date: March 22, 2004.

Time: 7:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Crystal City, 2899 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Deborah R. Jaffe, PhD, Scientific Review Administrator, Resources and Training Review Branch, National Cancer Institute, Division of Extramural Activities, 6116 Executive Blvd., Rm 8135, Bethesda, MD 20892, (301) 496–7721, *jaffed@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2376 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; 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 meeting.

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 associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel; Loan Repayment.

Date: March 4–5, 2004.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Carol Pontzer, PhD, Scientific Review Administrator, National Center for Complementary, and Alternative Medicine, 6707 Democracy Blvd., Bethesda, MD 20892.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel; Training and Education.

Date: March 4–5, 2004.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Carol Pontzer, PhD, Scientific Review Administrator, National Center for Complementary, and Alternative Medicine, 6707 Democracy Blvd., Bethesda, MD 20892.

Dated: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2371 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Alternative Medicine Announcement of Strategic Planning Stakeholder Forums

ACTION: Notice.

SUMMARY: The National Center for Complementary and Alternative Medicine (NCCAM) is developing its 5-year strategic plan (2005–2009), and invites the public to provide input regarding NCCAM research, training, outreach, and integration. Two strategic planning stakeholder forums will be held (March 22, 2004 in Bethesda, Maryland and April 19, 2004 in Seattle, Washington). In addition, the public is invited to provide comments via the NCCAM Web site.

Background

The National Center for Complementary and Alternative Medicine (NCCAM) was established in 1999 with the mission of exploring complementary and alternative healing practices in the context of rigorous science, training CAM researchers, and disseminating authoritative information to the public and professionals.

To date, NCCAM's efforts to rigorously study CAM, to train CAM researchers, to conduct outreach, and to facilitate integration have been guided by NCCAM's current strategic plan, ''Expanding Horizons of Healthcare: Five Year Strategic Plan 2001–2005'' located on the NCCAM Web site at *http://nccam.nih.gov/about/plans/fiveyear/index.htm*. Since its inception, NCCAM has funded over 300 projects and has over 700 grantee publications.

NCCAM's new strategic plan will also stipulate strategic goals, and will outline a research agenda that prioritizes among and between CAM domains, scientific area, and health conditions, based on identified needs and opportunities.

Request for Comments

The public is invited to provide input into the development of NCCAM's strategic plan for 2005–2009.

NCCAM will host two Strategic Planning Stakeholder Forums. These events will give NCCAM stakeholders an opportunity to voice their opinions regarding future directions for research, training, outreach, and integration in complementary and alternative medicine (CAM). The forums will be held:

March 22, 2004, 1 p.m. to 4 p.m., Natcher Conference Center, National Institutes of Health, Bethesda, Maryland 20892.

April 19, 2004, 1 p.m. to 4 p.m., The Westin Seattle, 1900 Fifth Avenue, Seattle, Washington 98101.

Forum attendees are welcome to address a listening panel composed of NCCAM senior staff and National Advisory Council members. Remarks should be limited to 3 minutes per speaker. Those wishing to address the panel should register to attend at least 5 days prior to their selected forum. NCCAM will schedule speakers until the time allotted is filled. To register, please visit *http://nccam.nih.gov*. Alternatively, the public is invited to submit written testimony via this Web site.

FOR FURTHER INFORMATION CONTACT: To request more information, visit the NCCAM Web site at *http://nccam.nih.gov*, call 1–888–644–6226, or e-mail *info@nccam.gov*.

Comments Due Date

Comments regarding the development of NCCAM's strategic plan are best assured of having their full effect if received by April 20, 2004.

Dated: January 29, 2004.

Christy Thomsen,

Director, Office of Communications and Public Liaison, National Center for Complementary and Alternative Medicine, National Institutes of Health.

[FR Doc. 04–2390 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Review of Conference Grants (R13s).

Date: March 16, 2004.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, EC 122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: RoseAnne M. McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–0752.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2369 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Review of Conference Grants (R13s).

Date: March 18, 2004.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, Rm 3446, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: RoseAnne M. McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–0752.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training, 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2370 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants.

Date: March 18, 2004.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, EC–3446, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: RoseAnne M. McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, National Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–0752.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2372 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: March 18, 2004.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, EC–3446, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: RoseAnne M McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–0752.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Devlelopment in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2373 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: March 18, 2004.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, EC–3446, Research Triangle Park, NC 27709, (Telephone Conference Call).
Contact Person: RoseAnne M. McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–0752.

(Catalogue of Federal Domestic Assistance Programs Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2374 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Biodefense & Emerging Infectious Diseases: Choosing Drug Doses for BioD Pathogens.
Date: February 23, 2004.
Time: 1 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6700–B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Robert C. Goldman, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, DHHS, Room 3124, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7816, (301) 496–8424, *rg159w@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Unsolicited P01 Application on B Cell Biology.
Date: February 25, 2004.
Time: 1 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health/NIAID, 6700 B, Rockledge Drive, 3131, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Katherine L. White, PhD, Scientific Review Administrator, AIDS Preclinical Research Review Branch, Scientific Review Program, NIH/NIAID, 6700 B Rockledge Drive, Room 3131, Bethesda, MD 20892, (301) 435–1615, *kw174b@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Review of Four Unsolicited R13 Applications.
Date: March 8, 2004.
Time: 10:30 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).
Contact Person: Quirijn Vos, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2500, *qvos@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2375 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Marc Prep.
Date: March 1–2, 2004.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.
Contact Person: Richard I. Martinez, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–12B, 45 Center Drive MSC 6200, Bethesda, MD 20892–6200, 301 594–2849, *rm63f@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2377 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Minority Programs Review Committee, MARC Review Subcommittee A.

Date: February 26–27, 2004.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Richard I. Martinez, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–12B, 45 Center Drive MSC 6200, Bethesda, MD 20892–6200, 301–594–2849, *rm63f@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2378 Filed 2–4–04; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel. Treatment Units for Research on Neurocognition and Schizophrenia (Turns).

Date: February 13, 2004.

Time: 9 a.m. to 10:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Benjamin Xu, PhD, Scientific Review Administrator, Division of Extramual Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6143, MSC 9608, Bethesda, MD 20892–9608, (301) 443–1178, *benxu1@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. 93.242, 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: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2379 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Allergy and Infectious Diseases Special Emphasis Panel; Partnerships for Vaccine and Diagnostic Development.

Date: February 20, 2004.

Time: 8 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Mary J. Homer, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, Room 3255, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892, (301) 496–7042, *mjhomer@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diesases Research, National Institutes of Health, HHS)

Dated: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2382 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Environmental Health Sciences Council

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Environmental Health Sciences Council.

Date: February 23–24, 2004.

Open: February 23, 2004, 8:30 a.m. to 5:30 p.m.

Agenda: Discussion of program policies and issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6C10, Bethesda, MD 20892.

Open: February 24, 2004, 8:30 a.m. to 9:30 a.m.

Agenda: Discussion of program policies and issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6C10, Bethesda, MD 20892.

Closed: February 24, 2004, 9:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6C10, Bethesda, MD 20892.

Contact Person: Anne P. Sassaman, PhD, Director, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, NC 27709, 929/541–7723.

Information is also available on the Institute's/Center's home page: *http://www.niehs.nih.gov/dert/c-agenda.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 92.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards, 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 29, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2383 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed 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: Communication Disorders Review Committee, Communication Disorders Review Committee.

Date: February 18–19, 2004.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Melissa J. Stick, PhD, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892. 301–496–8683.

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. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS.)

Dated: January 29, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2384 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel, NIDCD Training, Career Development and Conference Grant Review.

Date: March 1, 2004.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852.

Contact Person: Ali A. Azadegan, DVM, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NIDCD, NIH, EPS–400C, 6120 Executive Blvd. MSC 7180, Bethesda, MD 20892–7180. (301) 496–8683; *azadegan@nih.gov.*

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel, Review of NIDCD Clinical Centers.

Date: March 2, 2004.

Time: 9 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, EPS/400C, 6120 Executive Blvd., Rockville, MD 20852.

Contact Person: Melissa Stick, PhD, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892. (301) 496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS.)

Dated: January 29, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2385 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, SBIR—''Develop New Technologies for Screening andAssessing Drug Abuse and Matching Patients with Appropriate Treatment Services'' (Topic 060).

Date: February 3, 2004.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive

Boulevard, Bethesda, MD 20892–8401. (301) 435–1439.

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 Drug Abuse Special Emphasis Panel, SBIR—''Develop Screening and/or Assessment Tools for Multi-Problem Youth'' (Topic 061).

Date: February 18, 2004.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401. (301) 435–1439.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS.)

Dated: January 29, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2386 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Allergy and Infectious Diseases Special Emphasis Panel Integrated Preclinical/Clinical AIDS Vaccine Development (IPCAVD).

Date: February 23–24, 2004.

Time: 9 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washington Center, 9751 Washington Boulevard, Gaithersburg, MD 20878.

Contact Person: Eleazar Cohen, Phd, Scientific Review Administrator, Scientific Review Program, National Institute of Allergy and Infectious Diseases, DEA/NIH/DHHS, 6700 B Rockledge Drive, MSC 7616, Room 3112, Bethesda, MD 20892–7616, 301–435–3564, *ec17w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856; Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2387 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; 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 Library of Medicine Special Emphasis Panel, R21 Review.

Date: March 17, 2004.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Hua-Chuan Sim, MD, Health Science Administrator, National Library of Medicine, Extramural Programs, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2380 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; 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 Library of Medicine Special Emphasis Panel; R03 Review.

Date: March 3, 2004.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Hua-Chuan Sim, MD, Health Science Administrator, National Library of Medicine, Extramural Programs, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS.)

Dated: January 28, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–2381 Filed 2–4–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2003–16711]

Cooperative Research and Development Agreements

AGENCY: Coast Guard, DHS.

ACTION: Notice of intent.

SUMMARY: The Coast Guard announces its intent to enter into a Cooperative Research and Development Agreement (CRADA) and seeks inquiries and proposals from potential participants. The goal of this CRADA will be the development of a display tool for the Coast Guard's use in visualizing its future ''world of work.''

DATES: Preliminary inquiries must be received by February 17, 2004. The deadline for receiving proposals is March 8, 2004.

ADDRESSES: Inquiries and proposals from potential participants must be sent to Bert Macesker, Risk Technologies Program Area Manager, U.S. Coast Guard Research & Development Center, 1082 Shennecossett Road, Groton, CT 06340 (e-mail: *bmacesker@rdc.uscg.mil*).

The general public can comment on this notice or on the Coast Guard's CRADA procedures. These comments will be docketed in the Docket Management System (DMS). Include the docket number (USCG–2003–16711) of this notice, and submit it using the DMS Web site *(http://dms.dot.gov)* or the Federal eRulemaking Portal *(http://www.regulations.gov)*. You can also fax comments to 202–493–2251 or mail or hand-deliver them to: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice or the proposed CRADA, contact Bert Macesker, Risk Technologies Program Area Manager, U.S. Coast Guard Research & Development Center, 1082 Shennecossett Road, Groton, CT 06340, telephone (860) 441–2726, e-mail: *bmacesker@rdc.uscg.mil*. If you have questions on viewing or submitting material to the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, telephone 202–366–0271.

SUPPLEMENTARY INFORMATION:

Cooperative Research and Development Agreements

Cooperative Research and Development Agreements, or CRADAs, are authorized by the Federal Technology Transfer Act of 1986 (Pub. L. 99–502, codified at 15 U.S.C. 3710a). A CRADA promotes the transfer of technology to the private sector for commercial use as well as specified research or development efforts that are consistent with the mission of the Federal parties to the CRADA. The Federal party or parties agree with one or more non-Federal parties to share research resources (but the Federal party does not contribute funding). The Department of Homeland Security (DHS), as an executive agency under 5 U.S.C. 105, is a Federal agency for purposes of 15 U.S.C. 3710a and may enter into a CRADA. DHS delegated its authority to the Commandant of the Coast Guard (see DHS Delegation No. 0160) and the Commandant has delegated his authority to the Coast Guard Research and Development Center.

Goal of Proposed CRADA

Under the proposed agreement, the Coast Guard's Research & Development Center (RDC) plans to collaborate with industry. Together, the RDC and its CRADA participant(s) will examine how the U.S. Coast Guard (USCG) can visualize its ''world of work'' in the future.

At the unit level, ''world of work'' implies a complete picture of the Commanding Officer's (CO's) area of responsibility and beyond. This complete picture includes a display (or displays) that offers personalized views of maritime risks and USCG readiness. The CO needs this information to decide how to reduce risks to the public and the costs to manage those risks. As an example, the CO wants to answer the question: How do we best balance USCG activities and resources against risk on any given day?

At the Commandant level, ''world of work'' looks across multiple units and at specific programs throughout the USCG. For example, the Commandant wants to answer the question: How much do our activities reduce risks?

The tool will provide information for risk-based decision making in a future environment. The information will assist USCG personnel in making both short-term operational decisions and longer-term strategic decisions.

The RDC, with its CRADA participant(s), will create a structured and collaborative environment to advance concepts and technologies for a display tool. The desired products of the proposed collaboration are a shared vision and an operationally relevant situation display tool. We currently envision the display tool as a two-dimensional, geographic display of maritime system risks and organizational readiness. Desirable display concepts include the ability to (1) integrate into the common operating picture of the future and (2) support a systematic approach to allocating USCG resources based on risk.

Party Contributions

We anticipate that the Coast Guard's contributions under the proposed CRADA will include:

(1) A structured opportunity to receive pertinent real world Integrated Maritime Command Center (IMCC) data, including the opportunity to establish real-time internet protocol (IP) data connections for access to IMCC-Miami data, to test and demonstrate CRADA products;

(2) Access to a Miami Area of Responsibility (AOR) risk profile, readiness, and response activity data;

(3) Feedback from USCG staff who are working in risk, readiness, and activity resource management modeling; and

(4) Feedback from USCG staff who are involved in defining IMCC situation display requirements.

We anticipate that the non-Federal parties' contributions under the proposed CRADA will include:

(1) Making the real-time, IP data connections to relevant data source locations;

(2) Qualified personnel and procedures (certified by the appropriate authority) for the proper handling of all data provided by the USCG, other federal, state, local, law enforcement, and private organizations under this CRADA;

(3) At least two ''innovative, alternative IMCC-Miami Situation Displays'' provided to the USCG via real-time, IP data connections, which meet all USCG-specified requirements (including security requirements); and

(4) Periodic updates of the design/layout of these ''innovative alternative'' IMCC-Miami Situation Displays based upon insights gained during the CRADA research.

Selection Criteria

The Coast Guard reserves the right to select for CRADA partners all, some, or none of the proposals in response to this notice. The Coast Guard will provide no funding for reimbursement of proposal development costs. Proposals (or any other material) submitted in response to this notice will not be returned. Proposals submitted are expected to be unclassified and have no more than 4 single-sided pages (excluding cover page and resumes). The Coast Guard will select proposals at its sole discretion on the basis of:

(1) How well they communicate an understanding of, and ability to meet, the proposed CRADA's goal; and

(2) How well they address the following criteria:

(a) Technical capability to support the non-Federal party contributions described;

(b) Resources available for supporting the non-Federal party contributions described; and

(c) Technical expertise/understanding of Maritime Domain Awareness, maritime common operational picture, USCG port operations, and industry best practices in situational display technologies.

This is a technology transfer/development effort. So far, the Coast Guard has no forecast to procure the technology. Proposals should clearly discuss how the concepts and technologies, *e.g.*, for two-dimensional, GIS-based display of maritime system risks and organizational readiness, could improve existing USCG capabilities and aid the USCG in visualizing its future ''world of work.''

Special consideration will be given to small business firms/consortia, and preference will be given to business units located in the U.S. which agree that products embodying inventions made under the CRADA or produced through the use of such inventions will be manufactured substantially in the U.S.

Dated: January 29, 2004.

F.A. Dutch,

Capt USCG, Commanding Officer, R&D Center.

[FR Doc. 04–2510 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2003–16297]

National Preparedness for Response Exercise Program (PREP)

AGENCY: Coast Guard, DHS.

ACTION: Notice; revision to PREP triennial exercise schedule for 2004, 2005, and 2006; request for public comment; correction to prior notice.

SUMMARY: On October 16, 2003, the Coast Guard—on behalf of the Coast Guard, the Research and Special Programs Administration, the Environmental Protection Agency and the Minerals Management Service—published the Preparedness for Response Exercise Program (PREP) triennial exercise schedule for 2004 through 2006. This notice revises that schedule based on internal agency input, requests comments from the public, and requests industry participants to volunteer for scheduled PREP Area exercises.

DATES: Comments and related material must reach the Docket Management Facility on or before March 8, 2004.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2003–16297 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Web Site: http://dms.dot.gov.*

(2) *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.

(3) *Fax:* 202–493–2251.

(4) *Delivery:* Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, or need general information regarding the PREP Program and the schedule, contact Mr. Robert Pond, Office of Response, Plans and Preparedness Division (G-MOR–2), U.S. Coast Guard Headquarters, telephone 202–267–6603, fax 202–267–4065 or e-mail *rpond@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Andrea M. Jenkins, Program Manager, Docket Operations, telephone 202–366–0271.

SUPPLEMENTARY INFORMATION: The Preparedness for Response Exercise Program (PREP) Area exercise schedule and exercise design manuals are available on the Internet at *http://www.uscg.mil/hq/nsfweb/nsfcc/prep/index.html.* To obtain a hard copy of the exercise design manual, contact Ms. Melanie Barber at the Research and Special Programs Administration, Office of Pipeline Safety, at 202–366–4560. The 2002 PREP Guidelines booklet is available at no cost on the Internet at *http://www.uscg.mil/hq/nsfweb/nsfcc/prep/index.html* or by writing or faxing the TASC DEPT Warehouse, 33141Q 75th Avenue, Landover, MD 20785, facsimile: 301–386–5394. The stock number of the manual is USCG–X0241. Please indicate the quantity when ordering. Quantities are limited to 10 per order.

Public Participation and Request for Comments

We encourage you to respond to this notice by submitting comments and related materials. All comments received will be posted, without change, to *http://dms.dot.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' three paragraphs below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this notice (USCG–2003–16297), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, 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 triennial exercise schedule in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

Revisions to the October 2003 Notice

On October 16, 2003, the Coast Guard published a notice in the **Federal Register** (68 FR 59627) announcing the PREP triennial exercise schedule for 2004, 2005, and 2006. We are making several revisions to the triennial exercise schedule in that notice based on internal agency input. A summary of the changes follows—

For *Government-Led Area Exercises for Calendar Year 2004,* we changed

Guam from 1st to 4th Quarter, changed Prince William Sound from 4th to 3rd Quarter, and added EPA Region I to 4th Quarter. For *Industry-Led Area Exercises for Calendar Year 2004*, we changed Maryland Coastal from 2nd to 4th Quarter, and added a footnote for Charleston, SC, and Duluth-Superior to indicate ''credit for response in lieu of exercise.''

This notice announces the revised triennial schedule of Area exercises. If a company wants to volunteer for an Area exercise, a company representative may call either the Coast Guard or EPA On-Scene Coordinator (OSC) where the exercise is scheduled.

The table below is the revised PREP schedule for the calendar years 2004, 2005, and 2006.

TABLE—PREP SCHEDULE—GOVERNMENT-LED AREA EXERCISES

Area	Agency	Qtr [1]	Participant
CALENDAR YEAR 2004			
Los Angeles/Long Beach South (Marine Safety Office (MSO) LA/LB), SONS [2]	CG	2	
San Diego (MSO San Diego), SONS [2]	CG	2	
Prince William Sound (MSO Valdez)	CG	3	
Guam (MSO Guam)	CG	4	
Region I Regional Contingency Plan (RCP) (EPA Region I)	EPA	4	
CALENDAR YEAR 2005			
Houston-Galveston (MSO Houston)	CG	1	
Virginia Coastal (MSO Hampton Road)	CG	1	
Alabama-Mississippi (MSO Mobile)	CG	2	
Providence (MSO Providence)	CG	3	
Western Alaska (MSO Anchorage)	CG	3	
Region V RCP (EPA Region V)	EPA	4	
CALENDAR YEAR 2006			
Cleveland, OH (MSO Cleveland)	CG	1	
Jacksonville, FL (MSO Jacksonville)	CG	2	
To Be Determined	CG	2	
Northwest Area-Portland (MSO Portland)	CG	3	
Region IX RCP or Oceania (EPA Region IX)	EPA	3	
New Orleans, LA (MSO New Orleans)	CG	4	

PREP SCHEDULE—INDUSTRY-LED AREA EXERCISES

Area	Qtr [1]	Participant
CALENDAR YEAR 2004		
Chicago, IL (MSO Chicago)	2	
Long Island Sound (MSO Long Island)	2	
San Francisco Bay (MSO San Francisco)	2	
South Texas Coast (MSO Corpus Christi)	2	
Charleston, SC (MSO Charleston)	[3] 3	
Morgan City, LA (MSO Morgan City)	3	
New York, NY (Activities NY)	3	
Savannah, GA (MSO Savannah)	3	
Duluth-Superior (MSO Duluth)	[3] 4	
Maryland Coastal (MSO Baltimore)	4	
Eastern Wisconsin (MSO Milwaukee)	4	
Northwest-Puget Sound (MSO Puget Sound)	4	
Region VII RCP (EPA Region VII)	4	
CALENDAR YEAR 2005		
Detroit, MI (MSO Detroit)	1	
Region VIII (EPA Region VIII)	1	
Boston (MSO Boston)	2	
Hawaiian Islands (MSO Honolulu)	2	
South Florida (MSO Miami)	2	
South Los Angeles/Long Beach, CA (MSO LA/LB)	2	
S. North Carolina (MSO Wilmington)	3	
SW La./SE Texas (MSO Port Arthur)	3	
Tampa, FL (MSO Tampa)	3	
Region X or EPA Alaska RCP (EPA Region X)	4	
Sault Ste. Marie, MI (MSO Sault Ste. Marie)	4	
CALENDAR YEAR 2006		
Florida Panhandle (MSO Mobile)	1	

PREP SCHEDULE—INDUSTRY-LED AREA EXERCISES—Continued

Area	Qtr [1]	Participant
SE Alaska (MSO Juneau)	1	
Buffalo (MSO Buffalo)	2	
Maine-New Hampshire (MSO Portland, ME)	2	
Philadelphia, PA (MSO Philadelphia)	2	
Region II RCP or Caribbean (EPA Region II)	2	
North Coast (CA) Area (MSO San Francisco)	3	
Region III RCP (EPA Region III)	3	
Region VI RCP (EPA Region VI)	3	
Caribbean Area (MSO San Juan)	4	
Northern Marianas (MSO Guam)	4	
Western Lake Erie (MSO Toledo)	4	

[1] Quarters: 1 (January-March); 2 (April-June); 3 (July-September); 4 (October-December).
[2] SONS: 2004 Spill of National Significance Exercise.
[3] **Note:** Credit for response in lieu of exercise.

In the first paragraph of the **SUPPLEMENTARY INFORMATION** section of the October 16, 2003 notice, we erroneously referred to the 2003 PREP Guidelines booklet. The latest edition available is the 2002 PREP Guidelines booklet.

Correction

In the **Federal Register** of October 16, 2003, in FR Doc. 03–26129, on page 59628, in the first sentence of the second column, correct ''2003'' to read ''2002''.

Dated: January 30, 2004.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security & Environmental Protection.

[FR Doc. 04–2507 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No.FR–4903–N–04]

Notice of Submission of Proposed Information Collection to OMB:Request Voucher for Grant Payment and LOCCS Voice Response System Access Authorization

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.

This is a request to extend approval for the request for grant payment vouchers used to prepare automated phone request for distribution of grant funds using the automated Voice Response System (VRS). The authorization form is submitted to establish access to the voice activated payment system.

DATES: *Comments Due Date:* March 8, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and OMB approval number (2535–0102) and should be sent to: Melanie Kadlic, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; E-mail *Melanie_Kadlic@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 or on HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

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: Request Voucher for Grant Payment and LOCCS Voice Response System Access Authorization.

OMB Approval Number: 2535–0102.

Form Numbers: HUD 27053, HUD 27054.

Description of the Need for the Information and Its Proposed Use: This is a request to extend approval for the request for grant payment vouchers used to prepare automated phone request for distribution of grant funds using the automated Voice Response System (VRS). The authorization form is submitted to establish access to the voice activated payment system.

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

Frequency of Submission: On occasion.

Reporting Burden:

Number of respondents	Annual responses	×	Hours per response	=	Burden hours
2,200	116		0.17		43,384

Total Estimated Burden Hours: 43,384.

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: January 29, 2004.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 04–2346 Filed 2–4–04; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No.FR–4903–N–05]

Notice of Submission of Proposed Information Collection to OMB:MultiFamily Uniform Physical Inspection Reporting Requirements

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This information collection is the standardized assessment of the physical and management condition of HUD-held or insured multifamily housing properties and the certification of deficiencies. This revision eliminates the owners' requirement to submit corrective action plans.

DATES: *Comments Due Date:* March 8, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and OMB approval number (2502–0369) and should be sent to: Melanie Kadlic, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; E-mail *Melanie_Kadlic@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 or on HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

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: MultiFamily Uniform Physical Inspection Reporting Requirements.

OMB Approval Number: 2502–0369.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: This information collection is the standardized assessment of the physical and management condition of HUD-held or insured multifamily housing properties and the certification of deficiencies. Eliminates the owners' requirement to submit corrective action plans.

Respondents: Business or other for-profit institutions.

Frequency of Submission: Annually, semiannually, or every three years.

Reporting Burden:

Number of respondents	Annual responses	×	Hours per response	=	Burden hours
12,901	12,901		3		38,824

Total Estimated Burden Hours: 38,824.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 29, 2004.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 04–2347 Filed 2–4–04; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4903–N–02]

Notice of Submission of Proposed Information Collection to OMB: Healthy Homes and Lead Hazard Control Grant Programs Data Collection—Progress Reporting

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.

This data collection provides HUD timely information of implementation progress by grantees on carrying out Lead Hazard Control Grant Programs. HUD will provide Congress with status reports as required by statute.

DATES: *Comments Due Date:* March 8, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and OMB approval number (2539–0008) and should be sent to: Melanie Kadlic, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503;

fax number (202)395–6974; e-mail *Melanie_Kadlic@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., 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 or on HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

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: Healthy Homes and Lead Hazard Control Grant Programs Data Collection—Progress Reporting.

OMB Approval Number: 2539–0008

Form Numbers: HUD–96006.

Description of the Need for the Information and its Proposed Use: This data collection provides HUD timely information of implementation progress by grantees on carrying out Lead Hazard Control Grant Programs. HUD will provide Congress with status reports as required by statue.

Respondents: Business or other for-profit, not-for-profit institutions, State, local or tribal government.

Frequency of Submission: On occasion.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	210		4		8		6,720

Total Estimated Burden Hours: 6,720.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 28, 2004.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. E4–183 Filed 2–4–04; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4903–N–03]

Notice of Submission of Proposed Information Collection to OMB: Community Development Work Study Program

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.

This is a request for renewed approval to collect the information necessary to select applicants for awards in this statutorily created competitive grant program and to monitor performance of grantees to ensure that they meet statutory and program goals and requirements.

DATES: *Comments Due Date:* March 8, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and OMB approval number (2528–0175) and should be sent to: Melanie Kadlic, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; fax number (202)395–6974; e-mail *Melanie_Kadlic@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., 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 or on HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

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: Community Development Work Study Program.

OMB Approval Number: 2528–0175.

Form Numbers: HUD 30007, HUD 30013, HUD 30014, HUD 30015, and standard grant application forms: SF 424, HUD 424B, HUD 2880, HUD 2993, HUD 2994, and HUD 96010–1.

Description of the Need for the Information and its Proposed Use: The information is being collected to select applicants for awards in this statutorily created competitive grant program and to monitor performance of grantees to ensure that they meet statutory and program goals and requirements.

Respondents: Institutions of higher learning accredited by a national or

regional accrediting agency recognized by the U.S. Department of Education, area-wide planning organizations (APO), and States.

Frequency of Submission: On occasion of application, annually.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	90		210		16		3,300

Total Estimated Burden Hours: 3,300.

Status: Request for an extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 28, 2004.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. E4–184 Filed 2–4–04; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4912–N–02]

Notice of Availability of a Final Environmental Impact Statement for the Salishan Revitalization Project, City of Tacoma, WA

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The Department of Housing and Urban Development gives notice to the public, agencies, and Indian tribes that a final Environmental Impact Statement for the Salishan Revitalization Project, City of Tacoma, WA will be available for a 30-day review period beginning today. This notice is given on behalf of the City of Tacoma, WA as the responsible entity for compliance with the National Environmental Policy Act (NEPA) in accordance with 24 CFR 58.4, and the City of Tacoma, WA jointly with the Tacoma Housing Authority (THA), and under their authority as lead agencies in accordance with the Washington State Environmental Policy Act (SEPA)(RCW 43.21). This notice advises that a NEPA/SEPA Final Environmental Impact Statement (FEIS) for the redevelopment of the Salishan housing project will be available. A NEPA Record of Decision (ROD) will be issued after the 30-day availability period. This notice is given in accordance with the Council on Environmental Quality Regulations at 40 CFR 1500–1508. The City of Tacoma's SEPA regulations (TMC 13.12.460 and TMC 13.12.680) provide a 14-day Hearing Examiner appeal period from the date of the issuance of the FEIS and a 15-day period from FEIS issuance limiting any land use action on the proposal (with a potential extension of the limitation on action as a result of any appeal). The NEPA review period and SEPA appeal period will run concurrently from the issuance of the FEIS.

DATES: *Comments Due Date:* Comments must be received by March 8, 2004. Comments are to be submitted to Karie Hayashi at the address below.

ADDRESSES: The FEIS is available on the Internet and can be viewed or downloaded at: *http://govme.cityoftacoma.org/govme/panelBeta/permitInfo/LandUse/landUse*. Hard copies of the FEIS are available from: Karie Hayashi, Land Use Administration Planner, City of Tacoma, 747 Market Street, Tacoma, Washington, 98402; e-mail: *khayashi@cityoftacoma.org*; phone: (253) 591–5387; fax: (253) 591–5433. The document can also be viewed at the following libraries: Pierce County Library, Main Branch, Tacoma Public Library, and the University of Washington, Tacoma Campus Library.

FOR FURTHER INFORMATION CONTACT: Karie Hayashi, Land Use Administration Planner, City of Tacoma, 747 Market Street, Tacoma, Washington 98402; Phone (253) 591–5387 fax: (253) 591–5433; e-mail: *khayashi@cityoftacoma.org*.

SUPPLEMENTARY INFORMATION: The Salishan Public Housing Development (Salishan) was originally constructed in 1942 as wartime housing. Located in what is known as the East Side neighborhood, Salishan is bordered on the west by Portland Avenue and on the east by Swan Creek. There are currently 786 housing units on the site and other related community/social service buildings.

In 2000, THA submitted a successful HOPE VI grant application for the redevelopment of Salishan. The amount of the HOPE VI grant awarded in connection with the Salishan revitalization project was $35 million. Under the proposed Revitalization Plan, existing housing will be demolished and Salishan will be redeveloped into a mixed-use, mixed-income community of approximately 1,270 to 1,500 units. The project will require the relocation of all existing residents. The new unit mix will incorporate low-income, affordable, and market rate housing with single- and multi-family dwellings, and senior and special needs housing. The redevelopment project will also include a mixture of commercial uses and improvements to community facilities such as expanding the existing health clinic, day care, family investment center, and gymnasium. Alternatives that were considered in the EIS included a no action alternative, a 1,270-unit alternative, and a 1,500-unit development. The FEIS identifies a Preferred Alternative (the 1,500-unit development), which was chosen following review of public and agency comments and the analysis in the Draft EIS.

Issuance of the FEIS will trigger a 30-day review period, after which a ROD will be issued. The issuance of the ROD will conclude a planning and environmental review process, which started with the notice of intent to prepare an EIS dated February 28, 2003. A 30-day scoping period was subsequently initiated and a public scoping meeting was held on March 19, 2003. The Draft EIS was made available for a 45-day comment period on September 5, 2003 (68 FR 52417). A public comment meeting to take oral comments on the Draft EIS was held on September 22, 2003.

Dated: January 28, 2004.

Roy A. Bernardi,

Assistant Secretary for Community Planning and Development.

[FR Doc. E4–182 Filed 2–4–04; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Central Utah Project Completion Act

AGENCY: Department of the Interior, Office of the Assistant Secretary—Water and Science.

ACTION: Extension of public comment period, Draft Environmental Impact Statement (DEIS), Lower Duchesne River Wetlands Mitigation Project, Duchesne and Uintah Counties, Utah.

SUMMARY: On November 24, 2003, the Department of the Interior (Department) and Utah Reclamation Mitigation and

Conservation Commission (Mitigation Commission) announced the availability for public review and comment of the Draft DEIS for the Lower Duchesne River Wetlands Mitigation Project (68 FR 65943). This project has been planned in conjunction with the Ute Indian Tribe of the Uintah and Ouray Agency and is intended to fulfill long-standing commitments to mitigate for impacts to Ute Indian tribal and non-tribal wetland-wildlife habitats arising from construction and operation of the Bonneville Unit, and to provide additional wetland/wildlife benefits to the Ute Indian Tribe. The Proposed Action and alternatives improve existing, and restore prior existing, wetlands to replace wetland resources, especially Ute Indian Tribal resources, lost or adversely impacted by the Bonneville Unit, Central Utah Project. Three public meetings were announced and the public was invited to submit comments on the adequacy of the DEIS and the assessment of environmental impacts until January 16, 2004. Based on comments received, the Department and Mitigation Commission have decided to extend the public comment period until February 17, 2004. Comments already received will remain on file and need not be resubmitted.

DATES: The public is invited to submit written comments on the Draft Environmental Impact Statement (DEIS), Lower Duchesne River Wetlands Mitigation Project until February 17, 2004.

ADDRESSES: Comments on the DEIS should be addressed to: Mr. Ron Groves, Director, Wissiups Wetlands Project, Ute Indian Tribe, P.O. Box 190, Ft. Duchesne, Utah 84026.

FOR FURTHER INFORMATION CONTACT: Copies of the Draft EIS and the resource technical reports can be obtained by contacting Mr. Ron Groves, Director, Wissiups Wetlands Project, Ute Indian Tribe, P.O. Box 190, Ft. Duchesne, Utah 84026, Telephone: (435) 722–5867, E-mail address: *wetlands@ubtanet.com.*

Copies of the DEIS are also available for inspection at:

Utah Reclamation Mitigation and Conservation Commission, 102 West 500 South, Suite 315, Salt Lake City, Utah 84101.

Department of the Interior, Central Utah Project Completion Act Office, 302 East 1860 South, Provo, Utah 84606.

Department of the Interior, Natural Resource Library, 1849 C Street, NW., Washington, DC 20240.

Duchesne County Library, 70 East Lagoon, Roosevelt, Utah 84066.

Headquarters, Ute Indian Tribe of the Uintah and Ouray Agency, 988 South 7500 East, Ft. Duchesne, Utah 84026.

Information on other matters related to this notice may be obtained by calling or writing Mr. Ralph G. Swanson, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT 84606–6154, Telephone (801) 379–1254, E-mail address: *rswanson@uc.usbr.gov.*

Dated: January 16, 2004.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 04–2400 Filed 2–4–04; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by March 8, 2004.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: University of Georgia, Infectious Disease Laboratory, Athens, Georgia, PRT–009445.

The applicant requests renewal of a permit to import samples from wild or captive-held birds (class Aves) for the purpose of scientific research/study of infectious diseases. This notification covers activities to be conducted by the applicant over a five-year period.

Endangered Marine Mammals and Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered marine mammals and/or marine mammals. The applications were submitted to satisfy requirements of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*) and/or the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing endangered species (50 CFR part 17) and/or marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Albert A. Cheramie, Golden Meadow, LA, PRT–082026.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Western Hudson Bay, polar bear population in Canada for personal use.

Applicant: Edward L. Keller, Mt. Clemens, MI, PRT–081346.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Davis Strait polar bear population in Canada prior to February 18, 1997, for personal use.

Applicant: S. Mark Rayburg, Lower Burrell, PA, PRT–082017.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Gulf of Boothia polar bear population in Canada prior to February 18, 1997, for personal use.

Applicant: Ronald K. Montgomery, Tulsa, OK, PRT–082018.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Gulf of Boothia polar bear population in Canada prior to February 18, 1997, for personal use.

Applicant: Robert M. Stuck, Clover, SC, PRT–082019.

The applicant requests a permit to import a polar bear (*Ursus maritimus*)

sport hunted from the Foxe Basin polar bear population in Canada prior to February 18, 1997, for personal use.

Applicant: Anthony B. Bouneff, Gaston, OR, PRT–082265.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort population polar bear population in Canada for personal use.

Applicant: Troy J. Link, Huron, SD, PRT–081743.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Baffin Bay polar bear population in Canada prior to February 18, 1997, for personal use.

Applicant: Jerry L. Gillingham, Henderson, NV, PRT–081748.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Baffin Bay polar bear population in Canada prior to February 18, 1997, for personal use.

Dated: January 23, 2004.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 04–2429 Filed 2–4–04; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for endangered species and/or marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*), and/or the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permit(s) subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in section 2 of the Endangered Species Act of 1973, as amended.

Endangered Species

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
077487	Steve Martin's Working Wildlife	68 FR 65466, November 20, 2003	January 6, 2004.
077489	Steve Martin's Working Wildlife	68 FR 65466, November 20, 2003	January 6, 2004.

Endangered Marine Mammals and Marine Mammals

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
079001	Ralph F. Duceour	68 FR 65466, November 20, 2003	January 16, 2004.
079622	Christopher M. Bieniek	68 FR 66851, November 28, 2003	January 21, 2004.

Dated: January 23, 2004.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 04–2430 Filed 2–4–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by March 8, 2004.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Isaac E. James, Denair, CA, PRT–081538.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (Damaliscus pygargus dorcas) culled from a captive herd maintained under the management program of the Republic of South Africa,

for the purpose of enhancement of the survival of the species.

Applicant: Iowa State University, Ames, Iowa, PRT–079368.

The applicant requests a permit to import samples obtained from wild Tartaruga, Podocnemis expanasa, leatherback sea turtle (*Dermochelys coriacea*), and hawksbill sea turtle (Eretmochelys imbricata), for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

Applicant: Drexel University, Philadelphia, PA, PRT–814546.

The applicant requests amendment of a permit to import samples and non-viable eggs obtained from wild green sea turtle, *Chelonia mydas*, leatherback sea turtle *Dermochelys coriacea*, and Olive Ridley sea turtle, *Lepidochelys olivacea*. for the purpose of scientific research. The applicant is seeking to import additional samples obtained from 100 viable leatherback sea turtle eggs. This notification covers activities to be conducted by the applicant through December 31, 2007.

Applicant: Arkansas State University, State University, AR, PRT–081603.

The applicant requests a permit to export and re-import non-living museum specimens of endangered and threatened species of plants and animals previously accessioned into the applicant's collection for scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

Applicant: Louisiana State University Museum of Natural Science, Baton Rouge, LA, PRT–003005.

The applicant requests a renewal of their permit to export and re-import non-living museum specimens of endangered and threatened species of plants and animals previously accessioned into the applicant's collection for scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

Endangered Marine Mammals and Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered marine mammals and/or marine mammals. The applications were submitted to satisfy requirements of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*) and/or the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing endangered species (50 CFR part 17) and/or marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Nova Southeastern University, Dania Beach, Florida, PRT–080580.

The applicant requests a permit to conduct research using infrared and sonar camera imaging on up to 50 captive and/or wild Florida manatee, *Trichechus manatus latirostris* per year for the purposes of scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Applicant: Lance K. Parks, Billings, MT, PRT–081539.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Baffin Bay polar bear population in Canada prior to February 18, 1997, for personal use.

Applicant: Hubert K. Wooten, Raeford, NC, PRT–081715.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Gulf of Boothia polar bear population in Canada prior to February 18, 1997, for personal use.

Applicant: James M. Williams, Jackson, MS, PRT–081755.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Baffin Bay polar bear population in Canada prior to February 18, 1997, for personal use.

Applicant: James A. Crane, Jr., Blythewood, SC, PRT–081966.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Foxe Basin polar bear population in Canada prior to February 18, 1997, for personal use.

Applicant: Robert B. Rhyne, Sharon, SC, PRT–081994.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Foxe Basin polar bear population in Canada prior to February 18, 1997, for personal use.

Dated: January 16, 2004.

Charles S. Hamilton,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 04–2431 Filed 2–4–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination To Acknowledge the Schaghticoke Tribal Nation

AGENCY: Office of Federal Acknowledgment, Interior.

ACTION: Notice of final determination.

SUMMARY: Pursuant to 25 CFR 83.10(m), notice is hereby given that the Assistant Secretary—Indian Affairs acknowledges the Schaghticoke Tribal Nation c/o Mr. Richard L. Velky, 33 Elizabeth Street, 4th Floor, Derby, Connecticut 06148, as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the petitioning group satisfies all seven criteria for Federal acknowledgment as a tribe in 25 CFR 83.7, and therefore meets the requirements for a government-to-government relationship with the United States.

DATES: This determination is final and is effective May 5, 2004, pursuant to 25 CFR 83.10(l)(4), unless a request for reconsideration is filed pursuant to 25 CFR 83.11. On-going negotiations in current litigation may modify or eliminate the applicability of this provision of the regulations.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Director, Office of Federal Acknowledgment, (202) 513–7650.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

This notice is based on a determination that the Schaghticoke Tribal Nation (STN) satisfies the seven criteria for Federal acknowledgment as an Indian tribe in 25 CFR 83.7.

The Department is considering the STN petition under a court approved negotiated agreement between the STN, the State of Connecticut, and other interested parties involved in pending litigation. This agreement neither modifies the criteria nor the standards required to demonstrate that all of the criteria have been met.

A notice of proposed finding (PF) to decline to acknowledge the STN was published in the **Federal Register** December 11, 2002 (67 FR 76184). That notice was based on a determination

that the petitioner did not satisfy all seven of the criteria set forth in 25 CFR 83.7, specifically criteria 83.7(b), and (c), and therefore did not meet the requirements for a government-to-government relationship with the United States.

The evidence available at the time of the PF showed that the STN petitioner and its antecedents met criteria 83.7(a) for identification as a Indian entity since 1900, 83.7(d) for providing a governing document, 83.7(e) for having a membership list and demonstrating descent from the historical tribe, 83.7(f) for not being members of an acknowledged Indian tribe, and 83.7(g) for not being the subject of legislation that terminated or forbade the Federal relationship. The PF concluded that the petitioner did not meet the requirements for criteria 83.7(b) to demonstrate community from first sustained historical contact to the present because there was insufficient evidence to demonstrate that community existed between 1940 and 1967. The PF concluded that the petitioner did not meet criterion 83.7(c) for political influence or authority from first sustained historical contact to the present. The PF concluded that the evidence was insufficient to demonstrate that the Schaghticoke met criterion 83.7(c), political influence within the group, from 1801 to 1875, that there was almost no specific evidence of Schaghticoke political activity from 1885 to 1949, and that there was insufficient evidence of political activity from 1949 to 1967. The PF concluded further concerning criterion 83.7(c) that the continuous state relationship with a reservation did not provide additional evidence during those periods when there was an absence of specific evidence of the exercise of political influence within the group within the meaning of the acknowledgment regulations.

Criteria 83.7(b) and 83.7(c) were also not met after 1996 because the STN's 2001 membership list (317 members) used for the PF did not include approximately 60 individuals, who were a part of the Schaghticoke social and political community between 1967 and 1996. These criteria were also not met because almost a third of the membership (110 of 317) were from a family line that was not part of the community and had no known social and political contact with the Schaghticoke before 1996.

This final determination (FD) is made following a review of the responses to the PF, the public comments on the PF, and STN responses to the public comments. This FD has reviewed the evidence considered for the PF, and evaluated that evidence in the light of the new documentation and argument received from third parties and the petitioners. This FD reevaluates the evidentiary weight given to continuous state recognition with a reservation.

The PF found that the Schaghticoke were regularly identified as an American Indian entity in Federal and state documents, by local authorities, by academic scholars, and in newspaper articles since 1900, thus meeting criterion 83.7(a). Neither the petitioner nor the third parties addressed criterion 83.7(a) in the comments on the PF. Some exhibits submitted for the FD provided additional external identifications of Schaghticoke as an American Indian entity from 1900 to the present. The conclusion of the STN PF that the petitioner meets criterion 83.7(a) is affirmed.

The PF found that Moravian mission records (1743 through 1771), the continued existence of a distinct residential settlement, repeated petitions by the group to the Colony and the State, and a detailed external enumeration of all members by name and age in 1789, demonstrated that there was a Schaghticoke community from the 1740's to 1801. Throughout the 19th century, the overseers' reports, the existence of a distinct geographical settlement to which off-reservation residents frequently returned, and the close kinship ties between reservation residents and non-resident members provided sufficient evidence to show that a Schaghticoke community existed until about 1900. The additional analysis of the evidence undertaken for the FD strengthened these conclusions. The FD affirms that the Schaghticoke meet 83.7(b) through 1900.

Additional evidence submitted for the FD confirms the conclusions of the PF that a portion of the Schaghticoke formed a residential community on the reservation between 1900 and 1920. Other Schaghticoke, resident off-reservation, maintained social ties as part of the group, had been born on and/or lived on the reservation, and were close relatives of the reservation residents. Additional analysis of residential and intermarriage patterns for the 19th century, which provided sufficient evidence for community until 1870 and strong evidence for community for the balance of the 19th century, provides supporting evidence for the existence of a community in the first two decades of the 20th century. Additional documentary sources were provided which identified a community on the reservation and recognized the connection between reservation and non-reservation residents. These forms of evidence combined provide sufficient evidence to demonstrate that criterion 83.7(b) is met from 1900 to 1920.

For 1920 to 1940 there was less specific evidence concerning community, but the reservation continued to be occupied during these decades. Interview evidence demonstrated social ties between the three major Schaghticoke family lines. The State made appropriations in both decades for the Schaghticoke and passed legislation transferring supervision of the Schaghticoke from one state agency to another. Documentary evidence from this period includes references to the Schaghticoke as an existing group. Continuous state recognition with a reservation provides additional evidence here, where specific evidence of community exists. Therefore, the STN meets criterion 83.7(b) from 1920 to 1940.

A thorough review of the existing data together with the new data submitted in response to the PF demonstrates that community existed among the Schaghtcoke between 1940 and 1967. A review of the oral histories, including new information added to the record in response to the PF, demonstrates that significant social relationships existed between, as well as within, the three main family lines during this time period.

The documents and oral histories of the 1936 to 1967 era concerning political activities demonstrate social and political contact, as does the oral history of reservation meetings during that period. Additional evidence is that the enrollments in 1949 and 1954 generally correspond with the families of Schaghticoke who enrolled between 1967 and 1973, indicating the continuity of the Schaghticoke's definition of their community.

Continuous state recognition provides additional evidence here, where specific evidence of community exists. Based on the new evidence and the analysis and reevaluation of the evidence already in the record, this FD concludes that criterion 83.7(b) is met between 1940 and 1967.

The evidence for community and political processes for 1967 to 1996 was based on the the political processes in the internal conflicts in this period, as well as the nature of the membership. Supportive evidence for community from 1967 to 1996 for the PF and for this FD was that enrollment in the Schaghticoke organization beginning in 1970 was almost entirely drawn from a select subset of the much larger pool of all Schaghticoke descendants, those who were from families that had

remained in social contact since the petitions of 1876 and 1889. This FD confirms the conclusion of the PF that there is sufficient evidence for political processes for 1967 to 1996. This FD adds additional evidence and analysis of conflicts which mobilized substantial number of members and showed contact between members, providing additional evidence to demonstrate community. Therefore, this FD confirms that criterion 83.7(b) is met from 1967 to 1996.

The evidence for community and political processes for 1967 to 1996 and the nature of membership and the political processes in the internal conflicts exist for 1996 to the present as well. The conflicts have continued up until the present, and social contacts have continued between the enrolled and unenrolled portions of the Schaghticoke community.

The evidence demonstrates that the Schaghticoke have existed as a community from first sustained contact until the present. The most recent STN membership list is incomplete and does not include a substantial portion of the present Schaghticoke community. This FD concludes that the STN, including the presently unenrolled portion of the community, meets the requirements of 83.7(b).

The State of Connecticut has, since colonial times, continuously recognized the Schaghticoke as a distinct tribe with a separate land base provided by and maintained by the State. The continuous state relationship manifested itself in the distinct, non-citizen status of the tribe's members until 1973. There is implicit in the relationship between the State and the Schaghticoke a recognition of a distinct political body, in part because the relationship originates with and derives from the Colony's relationship with a distinct political body at the time the relationship was first established. Colonial and state laws and policies directly reflected this political relationship until the early 1800's. The distinct political underpinning of the laws is less explicit from the early 1800's until the 1970's, but the Schaghticoke remained non-citizens of the State until 1973. The State continued the main elements of the earlier relationship (legislation that determined oversight, established and protected land holdings, and exempted tribal lands from taxation) essentially without change or substantial questioning throughout this time period.

The state relationship is documented to be continuously active throughout the history of the Schaghticoke, as demonstrated by state overseer actions, state statutes, and other actions of the executive, judicial and legislative branches of Connecticut's colonial and state governments. There are such state actions throughout the periods where there is little or no direct evidence of political influence within the group, 1820 to 1840 and 1892 to 1936.

In making this FD, the Department has reevaluated the evidentiary weight that was given to continuous state recognition with a reservation from colonial times until the present in the STN PF and in the Historical Eastern Pequot (HEP) PF and FD decisions. The position in those decisions was that the state relationship was not a substitute for direct evidence of political processes in a given period of time and could only add evidence where there was some, though insufficient, direct evidence of political processes.

The Department's reevaluated position is that the historically continuous existence of a community recognized throughout its history as a political community by the State and occupying a distinct territory set aside by the State (the reservation), provides sufficient evidence for continuity of political influence within the community, even though direct evidence of political influence is almost absent for two historical time periods. This conclusion applies only because it has been demonstrated that the Schaghticoke have existed continuously as a community, within the meaning of criterion 83.7(b), and because of the specific nature of their continuous relationship with the State. Further, political influence was demonstrated by direct evidence for very substantial historical periods before and after the two historical periods. Finally, there is no evidence to indicate that the tribe ceased to exist as a political entity during these periods.

For this FD, the historical periods in which there is insufficient direct evidence of political processes are substantially reduced from the PF. These periods are 1820 to 1840 and 1892 to 1936. Within the first period, evidence of community is strongly established. During the decade 1821–1830, there was an overall endogamy rate of 40 percent. During the decade 1831–1840, there was an overall endogamy rate of 35 percent. The rates for these two decades were substantial and provide strong evidence for the existence of community. However, they are below the 50 percent level required to provide carryover by themselves to demonstrate political influence or authority for the petitioner under 83.7(c)(3) for the two decades 1821–1840.

The conclusion of the FD is that the antecedents to this petitioner, the Weantinock (which were centered at New Milford) and Potatuck (which were centered at Newtown), existed as tribes at the time of first sustained contact. The Schaghticoke did not, as the third parties argue, begin as a ''group of individual Indians and families'' who in the mid-1700s ''coalesced from diverse locations and tribes long after there was a sustained presence of Europeans in western Connecticut.'' This FD does not accept the third parties' argument that the Schaghticoke did not exist at the time of first sustained contact with non-Indians nor the second argument that they do not derive from nor are a successor to any tribe or tribes that existed at the time of first sustained contact.

This FD rejects the third party argument that there must be evidence in the record of continuity of tribal political and social processes and conscious acts of amalgamation to create a Schaghticoke Tribe from the antecedent Weantinock and Potatuck. Neither the 25 CFR part 83 regulations nor precedent require an express decision when two tribes amalgamate. Amalgamation can occur over time. In this case, a specific early example of such common action is the May 13, 1742, petition directed to the General Assembly in which, ''Mowchu Cherry and others hereunto subscribing Being Indian Natives of this Land Humbly Sheweth, that there are at New Milford, and Potatuck the Places where we Dwell about Seventy Souls of us'' and requested missionaries.

For the time period 1736–1801, the PF found the petitioner met criterion 83.7(c) for political authority or influence within the group from the appearance of a distinct group at Schaghticoke, where the Connecticut General Assembly assigned it land in 1736 and where there was a Moravian mission from 1743 until 1771, until about 1801. The FD confirms this conclusion.

The PF found that there was insufficient evidence to demonstrate that the Schaghticoke met criterion 83.7(c) for the period from 1801 to 1875. There remains little direct evidence concerning political authority or influence among the Schaghticoke for this time period. However, criterion 83.7(c)(3) provides: ''A group that has met the requirements in paragraph 83.7(b)(2) at a given point in time shall be considered to have provided sufficient evidence to meet this criterion at that point in time.'' For the FD, taking into account submissions by the petitioner and third parties, a detailed,

decade-by-decade, analysis was made to determine whether petitioner meets 83.7(b)(2): ''At least 50 percent of the marriages in the group are between members of the group.'' On the basis of these calculations, the endogamy rate was sufficient that the STN meets criterion 83.7(c) from 1801–1820 and 1841–1870 under 83.7(c)(3).

The PF concluded that two petitions submitted in 1876 and 1884, signed by a number of Schaghticoke Indians living on the reservation and some living off the reservation, provided sufficient evidence that the group exercised some political influence or authority for that limited time period. For the FD, there is limited additional context for the two above petitions, which strengthens the conclusion of the PF that they show political influence and authority within the group at these dates. Both the 1876 and 1884 Schaghticoke petitions for appointment of an overseer were presented shortly after the passage by the Connecticut legislature of legislation that affected the Schaghticoke tribe. The evidence submitted for the FD also documented a third petition, which requested an audit of the tribe's funds. It was submitted in 1892 on behalf of the tribe by a member who had signed both the 1876 and 1884 petitions and was acted upon by the court, which appointed the auditors requested by the tribe. The auditors were paid from tribal funds.

The residency rate on the reservation in 1870 was 48 percent and in 1880 it was 40 percent. This is strong evidence for community for the period 1870–1880, which is supporting evidence for political influence, under section 83.7(c)(1)(iv).

On the basis of the additional evidence provided by the 1892 petition, the strong evidence of community in combination with the direct evidence for political influence demonstrates that the STN meets criterion 83.7(c) from 1870 through 1892.

This FD concludes there is little direct evidence to demonstrate political influence within the Schaghticoke between 1892 and 1936. This FD rejects many of the specific arguments presented by the petitioner to demonstrate significant political influence within the Schaghticoke between 1892 and 1936.

There was no evidence to demonstrate the political influence did not exist within the Schaghticoke from 1892 to 1934. There are several individuals who were well-known to non-Indians and were of some stature, but no contemporary evidence to demonstrate that they were identified as leaders by Schaghticoke or outsiders. Oral histories collected substantially later identify several individuals as leaders. The lack of evidence of overt political activity may have been influenced by demographic trends, which resulted in the relatively early deaths of many of the children of the petition signers of 1876 and 1884, limiting potential leaders in this time period. Two reports, one in 1934 and one in 1936, denied that the Schaghticoke at that time or ''in recent years,'' had leaders. The first report does not provide definitive evidence by itself, and the second, in 1936, is at the point in time when there is specific evidence of Schaghticoke leaders.

A well defined community of on and off-reservation residents existed throughout the 1892 to 1936 time period. Community, when it is demonstrated to exist at more than a minimal level, which has been done here, provides supporting evidence for direct evidence of political processes (83.7(b)(1)(iv)).

Although there is insufficient direct evidence to demonstrate criterion 83.7(c) between 1892 and 1936, this FD concludes that overall, based on the continuous state relationship with a state-provided reservation, and the demonstration of continuous community under 83.7(b), there is sufficient evidence of political continuity throughout the Schaghticoke history that the STN meets the requirements of 83.7(c) between 1892 and 1936.

For this FD, the evidence is significantly greater than for the PF concerning political processes within the Schaghticoke from 1936 to 1967. The evidence is that the organization that Franklin Bearce helped initiate, and the activities of named leaders, lasted for a substantially longer period of time, from 1936 to the mid-1960's, than was demonstrated for the PF. There is better evidence that the organization and office holders dealt with issues of significance to the group and that there was continuity of concern with the issue of protecting the reservation throughout this period, beginning with a possible Court of Claims suit in 1936, letters to the State in 1939, a 1943 letter to the U.S. Indian Service, a 1950 claim before the Indian Claims Commission (ICC) and a renewed land claims lawsuit in 1963, after the rejection of the ICC claim. There is also evidence of continued internal conflicts and involvement of individuals from each the three major family lines throughout the entire time period, indicating that the conflicts involved the entire community. The years between 1959 and 1969 were a period of political division, rather than there being a hiatus, as had appeared based on the analysis and evidence for the PF.

For the PF, there was not sufficient evidence to demonstrate that community had been demonstrated for the time period from 1940 to 1967. For this FD, community has been demonstrated for 1940 to 1967. For this FD, for the period from 1936 to 1967, where there is more evidence in the record than for the PF, the state relationship in combination with the specific evidence in the record for this period adds sufficient evidence that criterion 83.7(c) is met from 1936 to 1967.

This FD confirms the PF conclusion that there is ample evidence for political processes for 1967 to 1996. No information was submitted which demonstrated that the conflicts, described in some detail in the PF, had not occurred or not mobilized most of the membership. For this FD, there is additional evidence and analysis of the conflicts between 1967 and 1974 which mobilized substantial number of members and show contact between members. This provides additional evidence for criterion 83.7(c) for this time period.

The same evidence for political influence for 1967 to 1996, based on the political processes in the internal conflicts, exists for 1996 to the present as well. The conflicts have continued up until the present, especially, but not entirely, between the enrolled and unenrolled portions of the Schaghticoke community. This FD concludes that a single political body continues to exist, notwithstanding the absence from the certified membership list of an important segment of those involved in STN political processes from the 1960's to the present. This FD acknowledges the entirety of this political body.

There has been a continuous, active relationship from colonial times to the present between the State and the Schaghticoke in which the State treated them as a distinct political community. The historical continuity of the group has been demonstrated. This state relationship provides sufficient evidence to conclude that political influence existed continuously within the Schaghticoke, including two specific historical periods during where there is almost no direct evidence of political influence, but during which community has been demonstrated. The Schaghticoke therefore meet criterion 83.7(c) throughout their history.

The STN meets the requirements of criterion 83.7(d) because it submitted a copy of its governing document: A constitution adopted in 1997 which

included a description of its membership criteria.

The regulations require, under criterion 83.7(e), that a petitioner submit a complete list of its membership. In this instance, the petitioner has identified its most current certified list as not complete. It submitted two lists, the certified membership list and a list of the ''Unenrolled Schaghticoke Community.'' This FD acknowledges the tribe as defined by the STN's 2003 membership list, 273 members, and its additional list of 42 individuals, identified by the STN as part of its community and meeting its membership requirements. Together these two lists comprise the STN's base membership roll and its present membership for Federal purposes.

The STN provided sufficient evidence to show that all 273 individuals on the September 28, 2003, certified membership list and the 42 individuals listed on the September 28, 2003, amendment to the constitution who are ''unenrolled tribal community members'' descend from the historical tribe.

One hundred percent of the STN membership descends from the historical Schaghticoke tribe. Therefore the conclusion in the PF that the STN meets criterion 83.7(e) is confirmed.

No members of the STN are known to be dually enrolled with any federally acknowledged American Indian tribe. Neither the petitioner nor any of the interested parties addressed this criterion. Therefore, the conclusion in the PF that the STN meets criterion 83.7(f) is confirmed.

There has been no Federal termination legislation in regard to the STN. Neither the STN nor any interested parties addressed this criterion. Therefore, the conclusion in the PF that the STN meets criterion 83.7(g) is confirmed.

The Schaghticoke Tribal Nation, as defined by its 2003 membership list and its 2003 list of unenrolled community members meets all of the criteria for Federal acknowledgment as a tribe stated in 25 CFR 83.7 and, therefore, meets the requirements to be acknowledged as tribe with a government-to-government relationship with the United States.

This determination is final and will become effective May 5, 2004, unless a request for reconsideration is filed before the Interior Board of Indian Appeals (IBIA) pursuant to 25 CFR 83.11 or unless any party or amici in the litigation files for Administrative Procedures Act (APA) review with the district court. In addition, the court approved negotiated agreement calls for negotiation as to whether a request for reconsideration may be filed before the IBIA or whether judicial review under the APA is the only review. The on-going negotiation will continue until no later than 30 days after publication of this Notice. This negotiation may impact the ability of interested parties, whether parties to the litigation or not, to seek reconsideration before IBIA. Inquiries by interested parties concerning the availability of the IBIA review should be directed to the Office of the Solicitor, Branch of Tribal Government and Alaska, 202–208–6526, Attention: Scott Keep or Barbara Coen.

Dated: January 29, 2004.

Aurene M. Martin,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 04–2532 Filed 2–4–04; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Office of the Special Trustee for American Indians

Notice of Availability of Draft ''To-Be'' Trust Business Model for Public Comment

AGENCY: Office of the Special Trustee for American Indians; Interior.

ACTION: Notice of availability of draft ''To-Be'' trust business model for public comment.

SUMMARY: This action notifies the public of the availability of the draft ''To-Be'' trust business model for public comment from the date of this publication to March 31, 2004.

For a number of years, the Department of the Interior (DOI) has been working on several projects to reform and improve the management of Indian fiduciary trust assets. The most comprehensive reform effort currently underway is the development of the ''To-Be'' Trust Model, which will reengineer the way DOI bureaus and offices perform their trust responsibilities and, ultimately, improve services provided to trust beneficiaries.

Reengineering is necessary, particularly in response to some of the challenges facing DOI in its administration of the trust. These challenges include:

- Individual Indians, Tribes, and Congress who have, for some time, expressed dissatisfaction with the trust management services provided by DOI;
- Multiple and often duplicative processes that are used to manage land and natural resource assets, track ownership, manage accounts and distribute funds;
- The expectations of beneficiaries and employees that may exceed the Indian Trust mandate or capability of the Trustee to deliver;
- The number of fractionated interests in land assets, which are growing at an exponential rate, and the number of IIM accounts that must be managed, that have overwhelmed and excessively complicated the existing manual and automated processes and systems.

With this daunting array of challenges, the need for changing the way DOI delivers trust products and services is evident. DOI senior leadership has led the way by developing a plan titled The Comprehensive Trust Management (CTM) Plan, which defines and describes the strategic direction of trust reform and clearly articulates DOI's commitment to fulfilling its trust responsibilities. Toward this end, a team of DOI and tribal representatives worked extensively to document the DOI performance of current fiduciary trust business practices nationwide, which are reported in the ''As-Is'' Report. The information contained in the ''As-Is'' Report is the foundation for the recommendations for reengineered business process that appear within the ''To-Be'' Model. Standardization of fiduciary trust business processes and modernization of systems to meet customer, accounting, and operational requirements is needed.

During the period of November 2003 to January 2004, meetings were held to provide stakeholders' information relative to the progress made to date on the draft ''To-Be'' trust business model. The meetings were also intended to solicit comments and recommendations for improving the draft ''To-Be'' trust business model. This comment period follows the conclusion of those informational meetings.

DATES: All comments are due by March 31, 2004.

ADDRESSES: Submit any written comments on the ''To-Be'' draft business model to D. Jeff Lords, Acting Deputy Special Trustee—Trust Accountability, Office of the Special Trustee for American Indians, 4400 Masthead NE., Albuquerque, NM 87109. Submissions by facsimile should be sent to 505/816–1360.

FOR FURTHER INFORMATION CONTACT: D. Jeff Lords, Acting Deputy Special Trustee—Trust Accountability, Office of the Special Trustee for American Indians, 4400 Masthead NE.,

Albuquerque, NM 87109; telephone 505/816–1313.

SUPPLEMENTARY INFORMATION: This action notifies the public of a review and comment period for the draft ''To-Be'' trust business model from the date of publication to March 31, 2004. The draft ''To-Be'' trust business model is available by accessing *http://www.ost.doi.gov.* If you do not have internet access, a copy of the draft ''To-Be'' trust business model is available on Compact Disk (CD) format. For a copy of the CD please write to: Office of the Special Trustee for American Indians, Trust Program Management Center, 4400 Masthead NE., Albuquerque, NM 87109, or call 505/816–1313.

Individual respondents may request confidentiality. If you wish us to withhold your name, street address, and other contact information (such as fax or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. We will honor your request to the extent allowable by law. We will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Special Trustee for American Indians by 209 DM 11.

Dated: January 30, 2004.

Ross Swimmer,

Special Trustee for American Indians, Office of the Special Trustee for American Indians.

[FR Doc. 04–2407 Filed 2–4–04; 8:45 am]

BILLING CODE 4310–2W–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–494]

Certain Automotive Measuring Devices,Products Containing Same, and Bezels for Such Devices; Notice of Commission Decision Not To Review an Initial Determination Extending the Target Date for Completion of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the initial determination (''ID'') issued by the presiding administrative law judge (''ALJ'') on January 7, 2004, extending the target date for completion of the above-captioned investigation to January 20, 2005.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3115. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: The Commission issued a notice of investigation dated June 16, 2003, naming Auto Meter Products, Inc. (''Auto Meter'') of Sycamore, Illinois, as the complainant and several companies as respondents. On June 20, 2003, the notice of investigation was published in the **Federal Register**. 68 FR 37023. The complaint alleges violations of section 337 of the Tariff Act of 1930 in the importation and sale of certain automotive measuring devices, products containing same, and bezels for such devices, by reason of infringement of U.S. Registered Trademark Nos. 1,732,643 and 1,497,472, and U.S. Supplemental Register No. 1,903908, and infringement of the complainant's trade address. Subsequently, seven more firms were added as respondents based on two separate motions filed by Auto Meter.

On December 16, 2003, Auto Meter filed a motion to extend the target date for completion of the investigation and to modify procedural schedule. On December 23, 2003, respondents American Products, Inc., Equus products, Inc., GR Motorsports, Inc. (d/b/a Matrix GR Motorsports) and Hiper Industries, Inc. (d/b/a R–1 Racing Sports) filed an opposition to Auto Meter's motion. On December 24, 2003, respondent Blitz North America, Inc., filed a joinder to the above opposition. On December 30, 2003, Auto Meter filed a motion for leave to reply, and a reply.

On January 7, 2004, the ALJ issued an ID (Order No. 15) extending the target date for completion of this investigation from August 20, 2004, to January 20, 2005. No party petitioned for review of the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

Issued: February 2, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 04–2409 Filed 2–4–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on January 27, 2004, a proposed Consent Decree in *United States* v. *A–L Processors, f.k.a. Atlas-Lederer Co., et al.*, Civil Action No. C–3–91–309, was lodged with the United States District Court for the Southern District of Ohio.

In this action United States seeks the reimbursement of response costs in connection with the United Scrap Lead Superfund Site in Troy, Miami County, Ohio (''the Site'') pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.* The Consent Decree resolves the United States' claims against Defendants Broadway Iron & Metal, Barker Junk Company, Inc., Moyers Auto Wrecking, and U.S. Waste materials, for response costs incurred as a result of the release or threatened release of hazardous substances at the Site. Two of these settlements are ''ability-to-pay'' settlements based on financial analyses conducted by the Department's Antitrust Corporate Finance Unit. All of the settling Defendants made *de minimis* contributions of waste to the Site. The four settling parties collectively will pay the United States $137,499.18. The United States' remaining outstanding costs exceed $9,000,000 and are being sought from the remaining defendants in this case.

The Consent Decree also resolves the United Scrap Lead Respondent Group's (''Respondent Group'') CERCLA claims against the same parties for response costs incurred by the Respondent Group

in cleaning up the Site under an earlier Consent Decree. The settling parties will pay the Respondent Group a total of $38,782.55.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044, and should refer to *United States* v. *A–L Processors, f.k.a. Atlas-Leaderer Co., et al.,* D.J. Ref. 90–11–3–279B.

The Consent Decree may be examined at the Office of the United States Attorney, Southern District of Ohio, Federal Building Room 602, 200 West Second Street, Dayton, Ohio, or at the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604–3590. During the public comment period the proposed Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the proposed Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.75 (23 pages at 25 cents per page reproduction cost) payable to the U.S. Treasury.

William Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–2316 Filed 2–4–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Amended Consent Decree Under the Clean Air Act

In accordance with 28 CFR 50.7, notice is hereby given that on January 22, 2004, a proposed Consent Decree in *United States* v. *Ace Ethanol, L.L.C.* (''Ace Ethanol'') Civil Action No. 04 C 0034 S, was lodged with the United States District Court for the Western District of Wisconsin.

In a complaint filed simultaneously with the lodging of the proposed Consent Decree, the United States and the State of Wisconsin (''Plaintiffs'') asserted claims on behalf of the U.S. Environmental Protection Agency (''EPA'') and the Wisconsin Department of Natural Resources (''WDNR'') against the owners and operators of an ethanol mill in Stanley, Wisconsin, pursuant to section 113(b) of the Clean Air Act (''Act''), 42 U.S.C. § 7413(b). Plaintiffs sought injunctive relief and civil penalties for violations of the Prevention of Significant Deterioration (''PSD'') provisions of the Act and regulations promulgated thereunder; New Source Performance Standards (''NSPS''), 40 CFR part 60, subparts Db, Dc, Kb, and VV; National Emission Standards for Hazardous Air Pollutants (''NESHAP''), 40 CFR part 63; and the Wisconsin State implementation plan.

In the proposed Consent Decree, Ace Ethanol agrees, among other things, to install a regenerative thermal oxidizer to control volatile organic compound (''VOC''), particulate, and carbon monoxide emissions from its dryer; achieve at least 95 percent removal of VOCs; meet a stringent limit on nitrogen oxide (''NO_X'') emissions from its gas boilers and a new, plant-wide cap on hazardous air pollutant emissions; implement programs to reduce emissions during loading and transport operations and to manage dust on roads at the facility; comply with various monitoring and record-keeping requirements; apply for a PSD permit from the WDNR; and pay a civil penalty of over $300,000 to the State.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to: *United States* v. *Ace Ethanol, L.L.C.,* D.J. Ref. 90–5–2–1–08176.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Western District of Wisconsin, Suite 303, City Station, 660 West Washington Avenue, Madison, Wisconsin 53703, and at U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, IL 60604. During the public comment period the proposed Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open/html.* A copy of the proposed Consent Decree, may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC. 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $10.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–2315 Filed 2–4–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Partial Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Under 28 CFR 50.7, notice is hereby given that on January 27, 2004, a proposed Amended Consent Decree in *United States* v. *Central Maine Power Company*, Civil Action No. 90–302B, was lodged with the United States District Court for the District of Maine.

On September 3, 1991, the United States District Court for the District of Maine entered a Consent Decree between the United States and Central Maine Power Company (''CMP''). In the Consent Decree, CMP agreed to perform the remedy selected in a 1989 Record of Decision (''1989 ROD'') for the F. O'Connor Superfund Site (''Site''). Subsequently discovered conditions at the Site resulted in a determination by the United States Environmental Protection Agency (''EPA'') and the Maine Department of Environmental Protection (''Maine DEP''), that it would be technically impracticable to restore the groundwater at the Site to drinking water standards within a reasonable period of time.

Following issuance of a proposed plan and public comment period, EPA signed a 2002 Record of Decision Amendment (''2002 ROD Amendment'') to address the changes to the 1989 ROD. The 2002 ROD Amendment included active and passive oil recovery, long-term groundwater monitoring, a five-year review, and a restrictive covenant between CMP and the Maine DEP which prevents use of the Site groundwater. The 2002 ROD amendment also addressed minor changes and clarifications to the original 1989 remedy for source control. With necessary changes in the remedy, EPA is amending the 1991 Consent Decree and its Appendix II, Remedial Design/Remedial Action Statement of Work to make these documents consistent with the changes, and provide enforcement

for these changes. The proposed Amendment to Consent Decree provides for completion of remedial activities at the Site and preserves recovery of EPA's future oversite costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Amendment to Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044—7611, and should refer to *United States* v. *Central Maine Power Company*, Civil Action No. 90–302 B, D.J. Ref. 90–11–2–544.

The Amendment to Consent Decree may be examined at the Office of the United States Attorney for the District of Maine, P.O. Box 9718, Portland, Maine 04104–5018 and at U.S. EPA Region I, 1 Congress Street, Suite 1100, Boston, Massachusetts 02114–2023. During the public comment period, the Amendment to Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Amendment to Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy of the proposed Amendment to Consent Decree, please enclose a check payable to the U.S. Treasury for $30.50 for reproduction costs (at 25 cents per page).

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–2318 Filed 2–4–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Amended Consent Decree Under the Clean Air Act

In accordance with 28 CFR 50.7, notice is hereby given that on January 21, 2003, a proposed ''Consent Decree in *United States* v. *Dominick's Finer Foods, L.L.C.,* Civil Action No. 04C 0471, was lodged with the United States District Court for the Northern District of Illinois.

In a Complaint filed simultaneously with the lodging of the proposed Consent Decree, the United States sought injunctive relief and civil penalties for violations of the commercial refrigerant repair, recordkeeping, and reporting regulations at 40 CFR 82.152–82.166 (Recycling and Emission Reduction) promulgated by the Environmental Protection Agency (''EPA'') under Subchapter VI of the Act (Stratospheric Ozone Protection, 42 U.S.C. 7671–7671q, at some or all of the twenty-nine Dominick's stores listed in the Complaint, which are in or near Chicago, Illinois. In the proposed Consent Decree, Dominick's agrees to (1) replace or retrofit all commercial refrigeration units (units having a charge of more than 50 pounds of refrigerant) in the twenty-nine stores within two years to use only non-ozone depleting refrigerants; (2) in all stores that it constructs in the future, use only non-ozone depleting refrigerant systems; (3) participate in an EPA study of refrigeration systems in the food industry; and (4) pay a civil penalty of $85,000 to the United States.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to: *United States* v. *Dominick's Finer foods, L.L.C.,* D.J. Ref. 90–5–2–1–07951.

The Consent Decree may be examined at the Office of the United States Attorney for the Northern District of Illinois, 219 South Dearborn Street, Chicago, Illinois 60604, and at U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, IL 60604. During the public comment period the proposed Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the proposed Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood *(tonia.fleetwood@usdoj.gov),* fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $6.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–2317 Filed 2–4–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Under 28 CFR 50.7, notice is hereby given that on December 22, 2003, a proposed consent decree in *United States* v. *Saunders Supply Company et al.,* Civ. Action No. 2:03CV889, was lodged with the United States District Court for the Eastern District of Virginia.

Notice of this proposed consent decree was initially published at 69 FR 938 (January 7, 2004). The January 7, 2004 notice erroneously stated that the proposed consent decree was available at the Office of the United States Attorney in Wheeling, WV. It is actually available in the Office of the United States Attorney in Norfolk, VA. The notice of this proposed consent decree is being republished to correct this error.

In this action the United States is seeking response costs pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.,* in connection with the Saunders Supply Company, Inc. Site (''Site'') in Chuckatuck, Virginia. The decree will require defendants to pay $380,000.00 in partial reimbursement of the United States' past response costs incurred at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this application comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Saunders Supply Company et al.,* D.J. Ref. No. 90–11–3–07774.

The proposed consent decree may be examined at the Office of the United States Attorney, Eastern District of Virginia, 8000 World Trade Center, 1010 East Main St., Norfolk, VA 23510, and at U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. During the public comment period, the proposed consent decree, may also be examined

on the following Department of Justice Web site, *http://www.usdoj/gov/enrd/open.html.* A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Libary, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547.

In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $8.50 (25 cents per page reproduction cost) payable to the U.S. Treasury. Exhibits to the consent decree may be obtained for an additional charge.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–2320 Filed 2–4–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of a Consent Decree Under the Clean Air Act

Under 28 C.F.R. 50.7, notice is hereby given that on January 22, 2004, a proposed Consent Decree in *United States* v. *Wal-Mart Stores, Inc, Sam's West, Inc. and Sam's East, Inc.,* Civil Action No. 04–0086–CV–SOW was lodged with the United States District Court for the Western District of Missouri.

The complaint alleges twenty instances where Sam's Club violated the regulations promulgated under sections 608 and 609 of the Clean Air Act by selling class I or class II refrigerant to people who are not certified technicians to maintain, service, repair, or dispose of appliances that use refrigerant. The Consent Decree settles these claims in exchange for payment of a civil penalty of $400,000 in addition to injunctive relief under which Sam's Club and Wal-Mart have agreed to cease all sales of refrigerants containing class I and class II substances.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and National Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *U.S.* v. *Wal-Mart, Inc. et al.* Consent Decree, D.J. Ref. 90–5–2–1–06456.

The Consent Decree may be examined at the Office of the United States Attorney, Western District of Missouri Charles Evans Whittaker Courthouse, 400 East 9th Street, Fifth Floor Kansas City, Missouri 64106, Telephone: (816) 426–3122 and at U.S. EPA Region VII, 901 N. 5th Street, Kansas City, KS 66101, (913) 551–7471. During the public comment period, the Consent Decree may also be examined on the following Department of Justice web site, *http:/www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $6 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert Maher,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–2319 Filed 2–4–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day notice of information collection under review: Application to register as an importer of U.S. munitions import list Articles.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until April 5, 2004. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Debbie Lee, Firearms and Explosives Import Branch, Room 5100, 650 Massachusetts Avenue, NW., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application to Register as an Importer of U.S. Munitions Import List Articles.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 4587 (5330.04). Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None. The purpose of this information collection is to allow ATF to determine if the registrant qualifies to engage in the business of importing a firearm or firearms, ammunition, and the implements of war, and to facilitate the collection of registration fees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 300 respondents will complete a 30-minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total burden associated with this information collection is 150 hours annually.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, Department of Justice, Patrick Henry Building Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: January 30, 2004.

Brenda E. Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 04–2322 Filed 2–4–04; 8:45 am]

BILLING CODE 4410–FY–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 03–36]

Annette Antonsson, M.D., Denial of Application

On June 4, 2003, the Deputy Assistant Administrator, Office of Division Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Annette Antonsson, M.D. (Respondent) of San Francisco, California, notifying her of an opportunity to show cause as to why DEA should not deny her application for a DEA certificate of registration as a practitioner pursuant to 21 U.S.C. 824(a) and deny any pending applications for renewal or modification of Respondent's expired DEA registration BA2457097. As a basis for revocation, the Order to Show Cause alleged that Respondent voluntarily surrendered her State license to practice medicine to the Medical Board of California effective May 24, 1999, and that, accordingly, she is not authorized to handle controlled substances in California, the State in which she applied to be registered.

On July 5, 2003, Respondent, acting *pro se,* timely requested a hearing in this matter. In her request for a hearing, Respondent admitted she had surrendered her license and was ''currently not licensed in California.'' On July 24, 2003, the Presiding Administrative Law Judge Mary Ellen Bittner (Judge Bittner) issued the Government, as well as Respondent, an Order for Prehearing Statements.

In lieu of filing a prehearing statement, the Government filed Government's request for Stay of Proceedings and Motion for Summary Disposition. The Government argued that the Respondent is without authorization to handle controlled substances in the State of California, and as a result, further proceedings in the matter were not required. Attached to the Government's motion was a copy of the Medical Board of California's Decision and Order, dated June 28, 1999, adopting the Stipulation for Surrender of License which Respondent agreed to and signed on May 24, 1999.

On July 31, 2003, Judge Bittner issued a Memorandum to Counsel providing Respondent until August 31, 2003, to respond to the Government's motion. Respondent did not file any response.

On September 23, 2003, Judge Bittner issued her Opinion and Recommended Decision of the Administrative Law Judge (Opinion and Recommended Decision). As part of her recommended ruling, Judge Bittner granted the Government's Motion for Summary Disposition and found that the Respondent lacked authorization to handle controlled substances in California, the jurisdiction in which she was applying to be registered. Judge Bittner also recommended that the Respondent's application for a DEA certificate of registration be denied. No exceptions were filed by either party to Judge Bittner's Opinion and Recommended Decision and on November 13, 2003, the record of these proceedings was transmitted to the Office of the Acting DEA Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67, hereby issues her final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge.

The Acting Deputy Administrator finds that Respondent was previously issued DEA certificate of registration BA 2457097, which expired in June 2002. Subsequently, Respondent filed an application for renewal on October 31, 2002, which was appropriately treated by DEA as a request for a new registration. The Acting Deputy Administrator further finds that, effective May 24, 1999, Respondent voluntarily surrendered her State license to practice medicine to the California Medical Board and has also admitted that she is currently not licensed to practice in California. Therefore, the Acting Deputy Administrator finds Respondent is currently not licensed to practice medicine in California and as a result, it is reasonable to infer she is also without authorization to handle controlled substances in that State.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without State authority to handle controlled substances in the State in which she conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Karen Joe Smiley, M.D.,* 68 FR 48944 (2003); *Dominick A. Ricci, M.D.*, 58 FR 51104 (1993); *Bobby Watts, M.D.*, 53 FR 11919 (1988).

Here, it is clear that Respondent is not currently licensed to handle controlled substances in California, the jurisdiction in which she has applied for registration. Therefore, she is not entitled to a DEA registration in that State.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA certificate of registration submitted by Annette Antonsson, M.D., be, and it hereby is, denied. This order is effective March 8, 2004.

Dated: January 7, 2004.

Michele M. Leonhart

Acting Deputy Administrator.

[FR Doc. 04–2341 Filed 2–4–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Thomas G. Easter II, M.D.; Denial of Registration

On August 29, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Thomas G. Easter II, M.D. (Dr. Easter) notifying him of an opportunity to show cause as to why DEA should not deny his pending application for a DEA Certificate of Registration pursuant to 21 U.S.C. 823(f). The order alleged in relevant part that: Dr. Easter had been convicted in Texas State court of eight felony counts of Possession of Controlled Substances by Fraud; that the court terms of his probation prohibited him from prescribing controlled substances and he was thus not authorized to handle controlled substances in the State in which he practices; and that his registration was inconsistent with the public interest based on Dr. Easter's material false statements in his DEA Application for Registration and a false statement on his application for renewal of State registration under the Texas Controlled Substances Act. The order also notified Dr. Easter that should no

request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Easter at his registered location in El Paso, Texas. On September 18, 2002, DEA received an undated signed receipt indicating the Order to Show Cause was received on his behalf. DEA has not received a request for hearing or any other reply from Dr. Easter or anyone purporting to represent him in this matter.

Therefore, the Acting Deputy Administrator of DEA, finding that: (1) 30 days having passed since the delivery of the Order to Show Cause at Dr. Easter's registered address, and (2) no requests for hearing having been received, concludes that Dr. Easter is deemed to have waived his hearing right. *See Samuel S. Jackson, D.D.S.,* 67 FR 65145 (2002); *David W. Linder,* 67 FR 12579 (2002). After considering material from the investigative file in this matter, the Acting Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

Pursuant to 21 U.S.C. 824(a)(1), the Acting Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications for such a certificate upon a finding that the registrant has materially falsified any DEA application for registration. Pursuant to 21 U.S.C. 824(a)(2), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications for such a certificate upon a finding that the registrant has been convicted of a felony related to controlled substances under State or Federal law.

In addition, the Acting Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications for such certificate if she determines that the issuance of such registration would be inconsistent with the public interest, as determined pursuant to 21 U.S.C. 823(a)(4) and 823(f). Section 823(f) requires the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

As a threshold matter, it should be noted that the factors specified in section 823(f) are to be considered in the disjunctive: The Acting Deputy Administrator may properly rely on any one or a combination of the factors, and give each factor the weight she deems appropriate, in determining whether a registration should be revoked or denied. *Henry J. Schwarz, Jr., M.D.,* 54 FR 16422 (1989)

The Acting Deputy Administrator's review of the investigative file reveals that on April 23, 2001, in *State of Texas* v. *Thomas Easter,* Cause No. 99D00731 in the 243rd District Court of El Paso County, Texas, Dr. Easter pled guilty to an eight count indictment alleging violations of Texas Penal Code § 481.129, Possession of Controlled Substance by Fraud, a Third Degree Felony. On May 24, 2001, the court deferred adjudication of guilt and placed Dr. Easter on 10 years Community Supervision, with Terms and Conditions.

Among these Terms and Conditions was the prohibition that, without further order of the court, Dr. Easter was not to prescribe any medications, although he was permitted to make recommendations to a supervising physician. On February 22, 2002, the court modified the Terms and Conditions to generally allow Dr. Easter to prescribe medications, if done under the supervision of another physician. However, the court's order specifically prohibited him from prescribing ''scheduled narcotics.''

Pursuant to an August 22, 1998, Agreed Order of the Texas State Board of Medical Examiners, Dr. Easter's license to practice medicine in Texas was restricted for a period of five years. That restricted license allowed him to prescribe, administer or dispense dangerous and controlled drugs with addictive potential, if he complied with certain enumerated conditions set forth in the Agreed Order. On June 6, 2003, the Texas State Board of Medical Examiners denied a request by Dr. Easter to terminate that Agreed Order.

DEA does not have statutory authority under the Controlled Substances Act to issue a registration if the applicant is without State authority to handle controlled substances in the State in which he conducts business. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). The Acting Deputy Administrator and her predecessors have consistently so held. *See Douglas L. Geiger, M.D.,* 67 FR 64418 (2002); *Theodore T. Ambadgis, M.D.,* 58 FR 5759 (1993); *Ishan A. Karaagac, M.D.,* 51 FR 34695 (1986).

While Dr. Easter may hold a Texas medical license allowing him to prescribe, administer and dispense scheduled drugs, as of the date of this final order, there is no evidence that the Order of the District Court dated February 14, 2002, has been modified, revoked or otherwise terminated. The State court's order thus remains in full effect, prohibiting Dr. Easter from prescribing scheduled narcotic substances in Texas as a condition of his criminal probation.

Considering the foregoing, the Acting Deputy Administrator concludes, pursuant to 21 U.S.C. 823(f), that by virtue of that order, Dr. Easter currently lacks authority under the laws of the State of his applied-for registration and practice, to dispense controlled narcotic substances and his application should be denied on that, as well as the following grounds. *See John P. Daniels, M.D.,* 51 FR 34694 (1986) (State criminal court's probation order prohibiting defendant from possessing or prescribing dangerous drugs used as a basis for denying DEA application based on lack of State authorization).

The Acting Deputy Administrator further finds that Dr. Easter has been convicted of eight State felonies relating to the distribution or dispensing of controlled substances and that denial of his application for registration is independently appropriate under 21 U.S.C. 823(f) and 824(a)(2).

Dr. Easter also materially falsified his DEA Application for Registration (Control No. C07851408K). On February 23, 2002, he signed and certified the information in that application as being true and correct. Among the misrepresentations in the application, Dr. Easter affirmatively responded to Question 4(a), which asked if he was ''currently authorized to prescribe'' controlled substances ''under the laws of the State or jurisdiction in which you are operating or propose to operate.'' However, pursuant to the District Court's Order of February 22, 2002, Dr. Easter was at the time he signed that application, and still is, prohibited from prescribing controlled narcotic substances in Texas, the State of intended registration and practice.

Additionally, Dr. Easter replied in the negative to Question 4(c) of the application, which asked if he had ''ever been convicted of a crime in connection with controlled substances under State or Federal law?'' While entry of judgment in his criminal case was deferred, Respondent pled guilty to eight counts of Possession of Controlled Substance by Fraud, a Third Degree Felony under Texas law. DEA has consistently held that a deferred adjudication of guilt following a guilty plea, is a conviction within the meaning

of the Controlled Substances Act. *See Vincent J. Scolero,* D.O., 67 FR 42060, 42065 (2002); *Edson W. Redard, M.D.,* 65 FR 30616, 30618 (2000); *Yu-To Hsu, M.D.,* 62 FR 12840, 12842 (1997).

The Application for Registration form includes a block for applicants to explain any ''yes'' answers to questions ion section 4 of the form. Dr. Easter left that block empty. The Acting Deputy Administrator finds that Dr. Easter should have revealed in his application that he had pled guilty to the drug related felony counts and that checking the block ''no'' to Question 4(c), coupled with omission of any mention of his criminal history in the application, was a material falsification.

Dr. Easter also answered ''no'' to Question 4(e) which asked in relevant part, whether he ''*ever* had a state professional license revoked, suspended, denied, *restricted,* or placed on probation?'' (Emphasis added). However, a review of the record shows Dr. Easter's Texas medical license was restricted at the time of his DEA application pursuant to the Texas State Board of Medical Examiners' Agreed Order of August 22, 1998.

Pursuant to 21 U.S.C. 824(a)(1), falsification of a DEA application constitutes independent grounds to revoke a registration. Past cases have established that the appropriate test for determining whether an applicant materially falsified an application is whether the applicant ''knew or should have known'' that the submitted application was false. *See Barry H. Brooks, M.D.,* 66 FR 18305, 18307 (2001); *Terrance E. Murphy, M.D.,* 61 FR 2841, 2844 (1996); *Bobby Watts, M.D.,* 58 FR 46995 (1993). The Acting Deputy Administrator finds that Dr. Easter knew or should have known that his answers to the above liability questions were false.

False answers to liability questions are always considered material, as DEA relies on the answers to those questions in determining whether it is necessary to conduct an investigation prior to granting an application. *See Barry H. Brooks, M.D., supra,* 66 FR at 18308; *Theodore Neujahr, D.V.M.,* 64 FR 72362, 72364 (1999). Prior DEA cases have held that '' '[s]ince [it] must rely on the truthfulness of information supplied by applicants in registering them to handle controlled substances, falsification cannot be tolerated.' '' *See Terrance E. Murphy, M.D., supra,* 61 FR at 2845 (quoting *Bobby Watts, MD., supra,* 58 FR at 46995.

In prior DEA cases the Deputy Administrator has held that the totality of the circumstances is to be considered in determining whether a registration should be revoked because of a registrant's material falsification of an application. *See Barry H. Brooks, M.D., supra*, 66 FR at 18308; *Martha Hernandez, M.D.,* 62 FR 611435, 61147–48. In this case, the Acting Deputy Administrator finds that Dr. Easter provided false information in responding to the liability questions on his application and after considering the totality of the circumstances, finds that these misrepresentations constitute a material falsification warranting denial of registration under 21 U.S.C. 824(a)(1).

With regard to the public interest factors of 21 U.S.C. 823(f), as to factor one, recommendations of the State licensing board/disciplinary authority, it is noted that, except to the extent that Dr. Easter cannot treat himself or his family and must prescribe and administrator controlled drugs only when medically indicated and upon adequate examination, the Texas Medical Board has not currently restricted his ability to handle or prescribe controlled substances. Therefore, except for the order of the District Court, the Texas Medical Board would permit him to handle controlled substances in that State. However, '' 'inasmuch as State licensure is a necessary but not sufficient condition for a DEA registration * * * this factor is not dispositive.' '' *See Edson W. Redard, M.D.,* 65 FR 30616, 30619.

It is noted the record reflects that on August 18, 1999, Dr. Easter surrendered his Colorado medical license and that his New Mexico medical license was revoked in September 2002, based on the Texas convictions and his failure to report those convictions to New Mexico licensing authorities in a timely manner. The Hearing Office in the New Mexico proceedings specifically noted that, despite his criminal convictions, Dr. Easter still saw nothing wrong in what he had done, asserted his acts were justified and showed no contrition or remorse. The Hearing Officer found Dr. Easter was not rehabilitated and, ''if given the opportunity to do so, Respondent would write fraudulent prescriptions again if he believes he is justified.'' This conclusion is considered by the Acting Deputy Administrator as adverse to Dr. Easter under factor one and, as discussed below, factor five, as well.

Regarding factors two, three, four and five, the actions resulting in his conviction of the eight drug related felony counts discussed earlier, are relevant and adverse to Dr. Easter. With regard to factor five, such other conduct which may threaten the public health and safety, in Dr. Easter's Application for Renewal of his Texas Controlled Substances Registration Certificate which he signed on March 29, 2002, he advised the Texas Department of Public Safety that, ''initially I was ordered by the Court not to write prescriptions; however, on Valentine's Day 2002 Judge Bonnie Rangel reinstated my ability to write prescriptions.'' However, as the court's order modifying the terms and conditions of Dr. Easter's community supervision provides, while it generally authorized him to write prescriptions, the court specifically prohibited him from writing prescriptions for ''scheduled narcotics.'' Dr. Easter's omission of this critical fact from his State renewal application was a material misrepresentation, further indicating that his DEA registration would be inconsistent with the public interest.

While recognizing the conduct forming the basis for Dr. Easter's convictions occurred in 1997 and 1998, the Acting Deputy Administrator is particularly troubled by the attitude he has displayed as recently as July 2002. After his hearing before the New Mexico Medical Board, the hearing officer concluded Dr. Easter's ''lack of contrition or remorse and [his] apparent belief that he can write fraudulent prescriptions in violation of the law if he believes he is justified to do so under certain circumstances shows [Dr. Easter] is not rehabilitated.''

Couped with the series of omissions and misrepresentations in his DEA and Texas applications, it appears Dr. Easter still fails to appreciate the seriousness of his professional and personal misconduct and has a continuing penchant for not being candid when dealing with State and Federal licensing authorities.

In light of the foregoing, the Acting Deputy Administrator finds that Dr. Easter's registration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f) and 824(a)(4).

According, the Acting Deputy Administrator of the Drug Enforcement Administrator, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application for DEA Certificate of Registration, submitted by Thomas G. Easter II, M.D., be, and it hereby is, denied. This order is effective March 8, 2004.

Dated: January 7, 2004.

Michele M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 04–2338 Filed 2–4–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Timothy J. Irby/M.C.B.D. Pro International, TM Pure Dope Productions; Publishing Music Agency and Lab Research: Denial of Registration

On June 6, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Mr. Timothy J. Irby and his business, which he identified as ''M.C.B.D. Pro International; TM Pure Dope Productions; Publishing Music Agency and Lab Research''(MCBD) notifying Mr. Irby/MCBD of an opportunity to show cause as to why, pursuant to 21 U.S.C. 823(f) and 824(a), DEA should not deny the pending application for a DEA Certificate of Registration as a Researcher in Schedule I and II controlled substances. The Order to Show Cause alleged in relevant part that Mr. Irby and MCBD did not possess a State license to conduct research in controlled substances in Nevada, the State in which the applicant intended to conduct research and that registration would be inconsistent with the public interest.

The Order to Show Cause was sent by certified mail to Mr. Irby/MCBD at the registered location and last known address, identified in the application as 5450 Black Rock Way, Las Vegas, Nevada 89111–3705. This was Mr. Irby's residence. The Order to Show Cause was returned to DEA and the envelope marked by the United States Postal Service as ''Moved. Left no address.'' NEA has no further information regarding the whereabouts of Mr. Irby/MCBD, nor any information from anyone purporting to represent them in this matter.

Therefore, the Acting Deputy Administrator of DEA, finding that: (1) 30 days having passed since the attempted delivery of the Order to Show Cause at Mr. Irby/MCBD's last known address, and (2) no requests for hearing having been received, concludes that Mr. Irby/MCBD are deemed to have waived their hearing rights. *See Kenneth S. Nave, M.D.,* 68 FR 24761 (2003); *Samuel S. Jackson, D.D.S.,* 67 FR 65145 (2002); *David W. Linder,* 67 FR 12579 (2002); *Lawrence C. Agee, M.D.,* 66 FR 52934 (2001). After considering material from the investigative file in this matter, the Acting Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator's review of the investigative file reveals that on behalf of MCBD, Mr. Irby requested a DEA Certificate of Registration as a Researcher in schedule I and II controlled substances. The controlled substances identified in the application were cocaine, methamphetamine and marijuana. A DEA diversion investigator conducting a pre-registration investigation established that the intended place of registration was Mr. Irby's personal residence and that he does not possess a medical degree, any State licenses and was not affiliated with any medical facility, laboratory, clinic or staff.

Mr. Irby advised the DEA investigator he intended to conduct human research with the specified controlled substances. However, he has not obtained the required permissions to conduct human research from either the Food and Drug Administration or the State of Nevada, Health Division, Department of Licensure and Certification. Neither is Mr. Irby licensed with the Nevada State Board of Pharmacy or the Nevada Department of Health and Human Services nor does he possess a valid State business license.

In sum, the investigative file contains no evidence Mr. Irby/MCBD have personal licenses or affiliations with any legitimate medical or research facilities and have not taken even minimal steps to obtain requisite consents to conduct drug or human research in Nevada. Therefore, the Acting Deputy Administrator finds Mr. Irby/MCBD are not currently authorized to conduct research with controlled substances in the State of Nevada and it is reasonable to infer they are also without authorization to handle controlled substances in that State.

DEA does not have statutory authority under the Controlled Substances Act to issue a registration if the applicant is without State authority to handle controlled substances in the State in which he conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). The Acting Deputy Administrator and her predecessors have consistently so held. *See Douglas L. Geiger, M.D.,* 67 FR 64418 (2002); *Theodore T. Ambadgis, M.D.,* 58 FR 5759 (1993); *Ihsan A. Karqaagac, M.D.,* 51 FR 34695 (1986).

Considering the foregoing, the Acting Deputy Administrator concludes, pursuant to 21 U.S.C. 823(f), that Mr. Irby/MCBD lack authority under the laws of Nevada, the State of applied-for registration, to dispense or conduct research with respect to controlled substances and the application should be denied on that ground.

Because Mr. Irby/MCBD lack State authorization to handle controlled substances, the Acting Deputy Administrator concludes it is unnecessary to address whether or not his application for DEA registration should be denied based upon the public interest grounds asserted in the Order to Show Cause. *See Samuel Silas Jackson, D.D.S.,* 67 FR 65145 (2002); *Nathanial-Aikens-Afful, M.D.,* 62 FR 16871 (1997); *Sam F. Moore, D.V.M.,* 58 FR 14428 (1993).

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application for DEA Certificate of Registration, submitted by Timothy J. Irby on behalf of M.C.B.D. Pro International, TM Pure Dope Productions, Publishing Music Agency and Lab Research, be, and it hereby is, denied. This order is effective March 8, 2004.

Dated: January 7, 2004.

Michele M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 04–2339 Filed 2–4–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances Notice of Registration

By notice dated October 7, 2003, and published in the **Federal Register** on October 29, 2003 (68 FR 61700), ISP Freetown Fine Chemicals, 238 Main South Street, Assonet, Massachusetts 02702, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Phenylacetone (8501), a basic class of controlled substance listed in Schedule II.

The firm plans to import Phenylacetone to manufacture amphetamine.

No comments or objections have been received. DEA has considered the factors in title 21, United States Code, section 823(a) and determined that the registration of ISP Freetown Fine Chemicals to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated ISP Freetown Fine Chemicals on a regular basis to ensure that the company's continued

registration is consistent with the public interest. This investigation included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed.

Dated: December 24, 2003.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 04–2340 Filed 2–4–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 03–14]

Prescriptionline.com Revocation of Registration

On December 18, 2002, the Deputy Administrator of the Drug Enforcement Administration (DEA) issued an Order to Show Cause and Immediate Suspension of Registration to Prescriptiononline.com (Respondent) of Las Vegas, Nevada. Relying on 21 U.S.C. 823(f) and 824(a)(3), (a)(4) and (d), the Order proposed revoking Respondent's retail pharmacy Certificate of Registration, BP6558069, and denying any pending applications for renewal or modification of such registration. It further notified Respondent that its registration was suspended immediately, that the suspension would remain in effect until a final determination in this proceeding and that DEA agents were authorized to and directed to place under seal and remove all controlled substances possessed by Respondent and take into their possession, Respondent's certificate of registration.

As grounds for revocation, the Order to Show Cause alleged, among other things, that between March 12 and September 26, 2002, Respondent provided 1,599,828 dosage units of controlled substances via the Internet pursuant to prescriptions issued by physicians who had not established physician-patient relationships with the persons to whom the prescriptions were issued.

On January 22, 2003, Respondent, through counsel, timely requested a hearing in this matter and on January 24, 2003, the Presiding Administrative Law Judge Mary Ellen Bittner (Judge Bittner) issued the Government, as well as Respondent, an Order for Prehearing Statements. On February 12, 2003, in lieu of filing a prehearing statement, the Government filed Government's Motion for Summary Judgment and to Extend the Time to File Prehearing Statements if Necessary. The Government argued Respondent had entered into a stipulation and agreement with the Nevada State Board of Pharmacy (Nevada Board) in which, among other things, Respondent agreed to revocation of its Nevada pharmacy license, that on January 27, 2003, the Nevada Board ratified the stipulation and agreement and that as a result, Respondent is no longer authorized to dispense or otherwise handle controlled substances in the State of Nevada, the jurisdiction in which it is registered, a prerequisite for DEA registration. Attached to the Government's motion was a copy of the stipulation and agreement and the Nevada Board's order ratifying it.

On February 14, 2003, Judge Bittner issued a Memorandum to Counsel and Order staying the filing of prehearing statements and providing Respondent until February 28, 2003, to respond to the Government's motion. Respondent did not file any response.

On March 19, 2003, Judge Bittner issued her Opinion and Recommended Decision of the Administrative Law Judge (Opinion and Recommended Decision). As part of her recommended ruling, Judge Bittner granted the Government's Motion for Summary Disposition and found that Respondent lacked authorization to handle controlled substances in Nevada, the jurisdiction in which it was registered. Judge Bittner also recommended that the Respondent's DEA certificate of registration be revoked and that any pending applications for renewal or modification be denied. No exceptions were filed by either party to Judge Bittner's Opinion and Recommended Decision and on April 22, 2003, the record of these proceedings was transmitted to the Office of the then-DEA Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67, hereby issues her final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge.

The Acting Deputy Administrator finds that Respondent, registered to do business in the State of Nevada, was issued DEA Certificate of Registration BP6558069 as a retail pharmacy. The Acting Deputy Administrator further finds that on January 22, 2003, Respondent voluntarily entered into a ''Stipulation and Agreement between Board Staff and Prescriptionline.com'' in which Respondent agreed to revocation of its State of Nevada pharmacy license. On January 27, 2003, the Nevada Board issued an Order ratifying the stipulation and agreement. Respondent has not denied that it currently is not licensed to practice pharmacy in Nevada, its jurisdiction of registration.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without State authority to dispense or handle controlled substances in the State in which it conducts business. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Karen Joe Smily, M.D.,* 68 FR 48944 (2003); *Dominick A. Ricci, M.D.,* 58 FR 51104 (1993); *Bobby Watts, M.D.,* 53 FR 11919 (1988); *Wingfield Drugs, Inc.,* 52 FR 27070 (1987).

Here, it is clear that Respondent is not currently licensed to handle controlled substances in Nevada, the jurisdiction in which it maintains a DEA registration. Therefore, it is not currently entitled to a DEA registation.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration issued to Prescriptionline.com be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effecting March 8, 2004.

Dated: January 7, 2004.

Michele M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 04–2342 Filed 2–4–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances Notice of Registration

By notice dated September 2, 2003, and published in the **Federal Register** on October 27, 2003 (68 FR 61234–61235), Sigma Aldrich Company, Subsidiary of Sigma-Aldrich

Corporation, 3500 Dekalb Street, St. Louis, Missouri 63118, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Gamma Hydroxybutyric Acid (2010)	I
Methaqualone (2565)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Mescaline (7381)	I
4-Bromo-2, 5-dimethoxy-amphetamine (7391)	I
4-Bromo-2, 5-dimethoxyphenethylamine (7392)	I
2, 5-Dimethoxyamphetamine (7396)	I
3, 4-Methylenedioxyamphetamine (7400)	I
N-Hydroxy-3, 4-methylenedioxyamphetamine (7402)	I
3, 4-Methylenedioxy-N-ethylamphetamine (7404)	I
3, 4-Methylenedioxymethamphetamine (MDMA) (7405)	I
4-Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Psilocyn (7438)	I
Benzylpiperazine (BZP) (7493)	I
1-[3-(trifluoro-methyl)plenyl] Piperazine (TFMPP) (7494)	I
Heroin (9200)	I
Normorphine (9313)	I
Etonitazene (9624)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Ecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium powdered (9649)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The firm plans to repackage and offer as pure standards controlled substances in small quantities for drug testing and analysis.

No comments or objections have been received. DEA has considered the factors in title 21, United States code, section 823(a) and determined that the registration of Sigma Aldrich Company to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Sigma Aldrich Company on a regular basis to ensure that the company's continued registration is consistent with the public interest. This investigation included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with title 21, Code of Federal Regulations, section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed.

Dated: January 12, 2004.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 04–2344 Filed 2–4–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

VI Pharmacy, Rushdi Z. Salem; Revocation of Registration

On June 13, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to VI Pharmacy (VI) and Rushdi Z. Salem of St. Thomas, U.S. Virgin Islands, notifying VI of an opportunity to show cause as to why DEA should not revoke VI's DEA Certificate of Registration, BV5900421 under 21 U.S.C. 824(a)(1), (a)(2) and (a)(4) and deny any pending applications for renewal or modification of VI's retail pharmacy registration. As a basis for revocation, the Order to Show Cause alleged that VI materially falsified an application for registration, that Mr. Salem, the owner/operator of VI had been convicted of a felony related to controlled substances and that VI's continued registration was inconsistent with the public interest. The Order to Show Cause also notified VI that should no request for a hearing be filed within 30 days, its hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to VI and Mr. Salem, at VI's registered location at 25 Dronings Gade Main Street, St. Thomas, U.S. Virgin Islands 00801. According to the return receipt, the Order to Show Cause was received at the registered address and receipted for by B. Nelthrop on or around June 23, 2003.

DEA has not received a request for hearing or any other reply from VI or anyone purporting to represent it in this matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that VI is deemed to have waived its hearing right. See *Samuel S. Jackson, D.D.S.,* 67 FR 65145 (2002); *David W. Linder,* 67 FR 12579 (2002). After considering material from the investigative file, the Acting Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

Pursuant to 21 U.S.C. 824(a)(1), the Acting Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications for such a certificate upon a finding that the registrant has materially falsified any DEA application for registration. Pursuant to 21 U.S.C. 824(a)(2), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications for such a certificate upon a finding that the registrant has been convicted of a felony related to controlled substances under State or Federal law.

In addition, the Acting Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications for such certificate if she determines that the issuance of such registration would be inconsistent with the public interest as determined pursuant to 21 U.S.C. 823(a)(4) and 823(f). Section 823(f) requires the following factors be considered:

(1) The recommendation of the appropriate state licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

As a threshold matter, it should be noted that the factors specified in section 823(f) are to be considered in the disjunctive: The Acting Deputy Administrator may properly rely on any one or a combination of the factors, and give each factor the weight she deems appropriate, in determining whether a registration should be revoked or denied. *Henry J. Schwarz, Jr., M.D.,* 54 FR 16422 (1989)

The Acting Deputy Administrator finds that in 1998, VI Pharmacy, through and by Mr. Rushdi Salem, R.Ph, submitted an Application for DEA Registration as a retail pharmacy. Instead of the required evidence of State/jurisdiction licensure for the pharmacy, Mr. Rushdi submitted a copy of his personal Virgin Islands Pharmacist License, No. 125. Despite this, VI was issued and currently possesses DEA Certificate of Registration BV5900421 which, after its 2001 renewal, currently expires on May 31, 2004.

On April 18, 2001, Mr. Salem submitted a renewal application for VI's DEA Certificate of Registration, which he signed and certified as being true and correct. In response to question 3 of the application, asking if the applicant was authorized to distribute, dispense or otherwise handle controlled substances in the Virgin Islands, he checked the block ''Yes'' and represented that VI held Virgin Island registration number 11387. However the Virgin Island Board of Pharmacy indicates VI has never held any Board of Pharmacy license to operate as a pharmacy in its jurisdiction.

Pursuant to 21 U.S.C. 824(a0(1), falsification of a DEA application constitutes independent grounds to revoke a registration. Past cases have established that the appropriate test for determining whether an applicant materially falsified any application is whether the applicant ''knew or should have known'' that the submitted application was false. See *Barry H. Brooks, M.D.,* 66 FR 18305, 18307 (2001); *Terrance E. Murphy, M.D.,* 61 FR 2841, 2844 (1996); *Bobby Watts, M.D.,* 58 FR 46995 (1993).

Prior DEA cases have also held that '' '[s]ince [it] must rely on the truthfulness of information supplied by applicants in registering them to handle controlled substances, falsification cannot be tolerated.' '' See *Terrance E. Murphy, M.D., supra,* 61 FR at 2845 (quoting *Bobby Watts, M.D.., supra,* 58 FR at 46995.). Further, in prior DEA cases the Deputy Administrator has held that the totality of the circumstances is to be considered in determining whether a registration should be revoked because of a registrant's material falsification of an application. See *Barry H. Brooks, M.D., supra,* 66 FR at 18308; *Martha Hernandez, M.D.,* 62 FR 61145, 61147–48.

After considering the totality of the circumstances, the Acting Deputy Administrator finds that VI, through its owner Mr. Rushdi, provided false information in its April 18, 2001, Application for DEA Registration and this misrepresentation constitutes a material falsification of an application warranting revocation of VI's certificate.

The Acting Deputy Administrator further finds that in December 2000, an undercover U.S. Federal agent posing as a patient contacted VI Pharmacy by phone requesting narcotics without a prescription. He was told to fax an order and credit card number. The agent later faxed a request for approximately 200 dosage units of Schedule II and III narcotic controlled substances. VI Pharmacy, by return fax, quoted a per-pill price for some, but not all of the drugs. In a subsequent phone call, Mr. Salem told the agent to come to VI in person to purchase the drugs. Later that month, without a prescription, the agent purchased 100 tablets of Vicodin, a controlled substance, from Mr. Salem. In February 2001, using the mail, the agent then bought another 100 tablets of Vicodin and on two occasions in May 2001, the agent visited the pharmacy and purchased a total of 1,100 tablets of Vicodin. Finally, in June 2001, the agent purchased 1,500 tablets of Vicodin from Mr. Salem's brother, an employee of VI. All of these purchases were made without a prescription.

On January 20, 2003, in *United States* v. *Rushdi Z. Salem,* United States District Court for the Virgin Islands, Criminal Case No. 2001–235, Mr. Salem pled guilty to 21 U.S.C. 841(a)(1), knowingly and intentionally distributing a controlled substance. It is well settled that a pharmacy operates under the control of owners, stockholders, pharmacists, or other employees, and if any such person is convicted of a felony offense related to controlled substances, grounds exist to revoke the pharmacy's registration under 21 USC 824(a)(2). See *Rick's Pharmacy, Inc.,* 62 FR 42595, 42597 (1997); *Maxicare Pharmacy,* 61 FR 27368 (1996); *Big-T Pharmacy, Inc.,* 47 FR 51830 (1982). The Acting Deputy Administrator finds that grounds exist to revoke VI's registration under 21 USC 824(a)(2) based on the controlled substance related felony conviction of Mr. Rushdi.

Finally, with regard to the public interest factors of 21 U.S.C. 823(f), the Acting Deputy Administrator considers the above facts as relevant and adverse to the registrant under factors two, three, four and five of section 823(f). She concludes that VI Pharmacy's continued registration is inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f) and 824(a)(4).

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BV5900421, issued to VI Pharmacy, be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective March 8, 2004.

Dated: January 7, 2004.

Michele M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 04–2343 Filed 2–4–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 23, 2004.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor. To obtain documentation, contact Ira Mills on 202–693–4122 (this is not a toll-free number) or e-mail: *mills.ira@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Veterans' Employment and Training Service.

Type of Review: Extension of a currently approved collection.

Title: Eligibility Data Form: Uniformed Services Employment and Reemployment Rights Act and Veteran's Preference.

OMB Number: 1293–0002.

Affected Public: Individuals or households.

Type of Response: Recordkeeping; reporting.

Frequency: On occasion.

Number of Respondents: 1,500.

Annual Responses: 1,500.

Total Burden: 375.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Form VETS/USERRA/VP–1010 is used to file complaints with the Department of Labor's Veterans' Employment and Training Service under either the Uniformed Services Employment and Reemployment Rights Act or laws and regulations related to veteran's preference in the Federal employment.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 04–2493 Filed 2–4–04; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 29, 2004.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor. To obtain documentation, contact Ira Mills on 202–693–4122 (this is not a toll-free number) or e-mail: *mills.ira@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension of a currently approved collection.

Title: Manufacture's Certification of Modifications Made to Construction Aerial Lifts (29 CFR 1926.453).

OMB Number: 1218–0216.

Affected Public: Business or other for-profit; Federal government; State, local or tribal government.

Type of Response: Recordkeeping.

Frequency: On occasion.

Number of Respondents: 300.

Annual Responses: 300.

Total Burden: 15.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Employers who modify an aerial lift for uses other than those provided by the manufactures must obtain a certificate from the manufacturer or equivalent entity certifying that the modification is in conformance with applicable American National Standards Institute (ANSI) standards and this standard, and the equipment is as safe as it was prior to the modification. The manufacturer's certification demonstrates to interested parties that the manufacturer or an equally qualified entity assessed a modified aerial lift and found that it: Was safe for use by, or near employees; and would provide employees with a level of protection at least equivalent to the protection by the lift prior to modification.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 04–2494 Filed 2–4–04; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 29, 2004.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor. To obtain documentation, contact Ira Mills on 202–693–4122 (this is not a toll-free number) or e-mail: *mills.ira@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employee Benefits Security Administration.

Type of Review: Extension of a currently approved collection.

Title: Petition for Finding under Section 3(40) of ERISA.

OMB Number: 1210–0119.

Affected Public: Business or other for-profit; individual or household; not-for-profit institutions.

Type of Response: Reporting.

Frequency: On occasion.

Number of Respondents: 45.

Annual Responses: 45.

Total Burden: 1.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $104,000.

Description: This collection of information is used by the Department of Labor in preparation for proceedings to determine whether a plan or other arrangement is established or maintained pursuant to one or more agreements which the Secretary finds to be a collective bargaining agreement under section 3(40) of the Employee Retirement Income Security Act of 1974.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 04–2495 Filed 2–4–04; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Agency Information Collection Activities; Announcement of Office of Management and Budget (OMB) control Numbers Under the Paperwork Reduction Act

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice, Announcement of OMB approval of information collection requirements.

SUMMARY: The Occupational Safety and Health Administration (OSHA) announces that the Office of Management and Budget (OMB) has extended its approval for a number of information collection requirements found in certain sections of 29 CFR parts 1910 and 1926. OSHA sought approval under the Paperwork Reduction Act of 1995 (PRA–95), and, as required by that Act, is announcing the approval numbers and expiration dates for those requirements.

EFFECTIVE DATE: This notice is effective February 5, 2004.

FOR FURTHER INFORMATION CONTACT: Todd Owen or Theda Kenney, Directorate of Standards and Guidance, Occupational Safety and Health administration, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION: In a series of **Federal Register** notices, the Agency announced its requests to OMB to renew its current extensions of approvals for various information collection (paperwork) requirements in its safety and health standards for General and Construction Industries. In these **Federal Register** announcements, the Agency provided 60-day comment periods for the public to respond to OSHA's burden hour and cost estimates.

In accordance with PRA–95 (44 U.S.C. 3501–3520), OMB renewed its approval for these information collection requirements and assigned OMB control numbers to these requirements. The table below provides the following information for each of these OMB-approved requirements: The title of the collection; the date of the **Federal Register** notice; the **Federal Register** Reference (date, volume, and leading page); OMB's control number; and the new expiration date.

Title	Date of Federal Register publication, Federal Register reference, and OSHA docket number	OMB control number	Expiration date
Electrical Protective Equipment (29 CFR 1910.137) and Electric Power Generation, Transmission, Distribution (29 CFR 1910.269).	7/30/2003, 68 FR 44816, Docket No. 1218–0190(2003)	1218–0190	12/31/2006
Ethylene Oxide (EtO) (29 CFR 1910.1047)	7/30/2003, 68 FR 44817, Docket No. 1218–0108(2003)	1218–0108	12/31/2006
4,4′Methylenedianiline Construction (29 CFR 1926.60)	7/17/2003, 68 FR 42429, Docket No. 1218–0183(2003)	1218–0183	12/31/2006
4,4′Methylenedianiline General Industry (29 CFR 1910.1050).	7/11/2003, FR 41401, Docket No. 1218–0184(2003)	1218–0184	12/31/2006
Walking-Working Surfaces (29 CFR part 1910, Subpart D).	7/01/2003, 68 FR 39153, Docket No. 1218–0199(2003)	1218–0199	12/31/2006

In accordance with 5 CFR 1320.5(b), an agency cannot conduct, sponsor, or require a response to a collection of information unless: the collection displays a valid OMB control number; and the Agency informs respondents that they are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on January 30, 2004.

John L. Henshaw,

Assistant Secretary of Labor

[FR Doc. 04–2491 Filed 2–4–04; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0133(2004)]

Asbestos in General Industry Standard (29 CFR 1910.1001); Extension of the Office of Management and Budget's Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comment.

SUMMARY: OSHA solicits comments concerning its request for an extension of the information-collection requirements contained in its Asbestos in General Industry Standard (29 CFR 1910.1001 (the ''Standard'')). The standard protects employees from adverse health effects from occupational exposure to Asbestos in General Industry, including asbestosis, an emphysema-like condition; lung cancer; mesothelioma; and gastrointestinal cancer.

DATES: Comments must be submitted by the following dates:

Hard Copy: Your comments must be submitted (postmarked or received) by April 5, 2004.

Facsimile and electronic transmission: Your comments must be received by April 5, 2004.

ADDRESSES:

I. Submission of Comments

Regular mail, express delivery, hand-delivery, and messenger service: Submit your comments and attachments to the OSHA Docket office, Docket No. ICR–1218–0133(2004), Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m., EST.

Facsimile: If your comments, including any attachments, are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693–1648. You must include the docket number, ICR 1218–0133(2004), in your comments.

Electronic: You may submit comments, but not attachments, through the Internet at *http://ecomments.osha.gov.*

II. Obtaining Copies of the Supporting Statement for the Information Collection Request

The Supporting Statement for the Information Collection Request is available for downloading from OSHA's Web site at *http://www.osha.gov.* The supporting statement is available for inspection and copying in the OSHA Docket Office, at the address listed above. A printed copy of the supporting statement can be obtained by contacting Todd Owen at (202) 693–2222.

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA webpage. Please note you cannot attach materials such as studies or journal articles to electronic comments. If you have additional materials, you must submit three copies of them to the OSHA Docket Office at the address above. The additional materials must clearly identify your electronic comments by name, date, subject and docket number so we can attach them to your comments. Because of security-related problems there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 for information about security procedures concerning the delivery of material by express delivery, hand delivery and messenger service.

II. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information-collection burden is correct. The Occupational Safety and Health Act of 1970 (the ''Act'') authorizes information collection by employers as necessary of appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The basic purpose of the information-collection requirements in the Standard is to document that employers in general industry are providing their employees with protection from hazardous asbestos exposure. Asbestos exposure results in asbestos, an emphysema-like condition; lung cancer; mesothelioma; and gastrointestinal cancer.

Several provisions of the Standard specify paperwork requirements, including: Implementing an exposure monitoring program that notifies employees of their exposure-monitoring results; establishing a written compliance program; and informing laundry personnel of the requirement to prevent release of airborne asbestos above the time-weighted average and excursion limit. Other provisions associated with paperwork requirements include: Maintaining records of information obtained concerning the presence, location, and quantity of asbestos-containing materials (ACMs) and/or presumed asbestos-containing materials (PACMs) in a building/facility; notifying housekeeping employees of the presence and location of ACMs and PACMs in areas they may contact during their work; posting warning signs demarcating regulated areas; posting signs in mechanical rooms/areas that employees may enter and that contain ACMs and PACMs, informing them of the identify and location of these materials and work practices that prevent disturbing the materials; and affixing warning labels to asbestos-containing products and to containers holding such products. Additional provisions that contain paperwork requirements include: Developing specific information and training programs for employees; using information, data, and analyses to demonstrate that PACM does not contain asbestos; providing medical surveillance for employees potentially exposed to ACMs and/or PACM's, including administering an employee medical questionnaire, providing information to the examining physician, and providing the physician's written opinion to the employee; maintaining exposure-monitoring records, objective data used for exposure determinations, and medical-surveillance; making specified record (e.g. exposure-monitoring and medical-surveillance records) available to designated parties; and transferring exposure-monitoring and medical-surveillance records to the National Institute for Occupational Safety and Health on cessation of business.

These paperwork requirements permit employers, employees and their designated representatives, OSHA, and other specified parties to determine the effectiveness of an employer's asbestos-control program. Accordingly, the requirements ensure that employees exposed to asbestos receive all of the protection afforded by the Standard.

III. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

—Whether the proposed information-collection requirements are necessary for the proper performance of the

Agency's functions, including whether the information is useful;

—The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;

—The quality, utility, and clarity of the information collected; and

—Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

IV. Proposed Actions

OSHA is proposing to extend the information-collection requirements in the Asbestos in General Industry (29 CFR 1910.1001).

OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information-collection requirements contained to the Asbestos in General Industry (29 CFR 1910.1001).

Type of Review: Extension of currently approved information-collection requirements.

Title: Asbestos in General Industry (29 CFR 1910.1001).

OMB Number: 1218–0133.

Affected Public: Business or other for-profit organizations; Federal, State, Local, or Tribal Governments.

Number of Respondents: 243.

Frequency: On occasion.

Average Time per Response: Varies from 5 minutes to maintain records to 1.5 hours for employees to receive training or medical evaluation.

Responses: 65,893.

Estimated Total Burden Hours: 23,849.

Estimated Cost (Operation and Maintenance): 1,625,143.

V. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC on January 30, 2004.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 04–2492 Filed 2–4–04; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 04–021]

Notice of Information Collection Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: Locator and Information Services Tracking System (LISTS) Form.

OMB Number: 2700–0064.

Type of review: Extension of a currently approved collection.

Need and Uses: Information collected is used primarily to support Goddard Space Flight Center services that are dependent upon accurate locator-type information.

Affected Public: Individuals or households.

Number of Respondents: 8,455.

Responses Per Respondent: 1.

Annual Responses: 8,455.

Hours Per Request: 5 minutes per response.

Annual Burden Hours: 702.

Frequency of Report: Other (as required).

Patricia L. Dunnington,

Chief Information Officer, Office of the Administrator.

[FR Doc. 04–2426 Filed 2–4–04; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (04–022)]

President's Commission on Implementation of United States Space Exploration Policy; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

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 President's Commission on Implementation of United States Space Exploration Policy.

DATES: Wednesday, February 11, 2004, 9 a.m. to 5 p.m.

ADDRESSES: National Transportation Safety Board, Conference Center, 429 L'Enfant Plaza, Washington, DC 20954.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Schmidt, Office of the Administrator, National Aeronautics and Space Administration, Washington, DC, (202) 358–1808.

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:

—Welcoming remarks by Chairman Pete Aldridge
—Introduction of Commission Members
—Overview of Commission Charter and Goals
—Review of accomplishments of previous commissions, such as Pioneering the Space Frontier (Augustine) and America's Space Exploration Initiative (Stafford)
—Testimony by Federal agencies associated with space exploration
—Comments and discussion
—Closing comments

The reason for the late notice is that the arrangements for the meeting were made in anticipation of the short time frame in which the Commission is expected to finish its work. However, due to unanticipated delays in getting the charter finalized, and the difficulty of changing meeting arrangements at this time, it is not possible to accommodate the full notice period.

Visitors will be requested to sign a visitor's register.

Michael F. O'Brien,

Assistant Administrator for External Relations, National Aeronautics and Space Administration.

[FR Doc. 04–2638 Filed 2–4–04; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–382]

Entergy Operations, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–38, issued to Entergy Operations, Inc. (the licensee), for operation of the Waterford Steam Electric Station, Unit 3, located in St. Charles Parish, Louisiana.

The proposed amendment would increase the maximum authorized power level from 3441 megawatts thermal (MWt) to 3716 MWt. This change represents an increase of approximately 8 percent above the current licensed power. The proposed amendment would also change the operating license and the technical specifications appended to the operating license to provide for implementing uprated power operation.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By March 8, 2004, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in Title 10 of the Code of Federal Regulations (10 CFR) part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/cfr*. If there are problems in accessing the document, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition must also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene that must include a list of the contentions that the petitioner seeks to have litigated in the hearing. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement that satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing and petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to N.S. Reynolds, Esquire, Winston & Strawn, 1400 L Street NW., Washington, DC 20037–1128, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in

accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated November 13, 2003, which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 28th day of January 2004.

For the Nuclear Regulatory Commission.

Nageswaran Kalyanam,

Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 04–2485 Filed 2–4–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275 and 50–323]

Pacific Gas and Electric Company, Diablo Canyon Power Plant, Unit Nos. 1 and 2; Exemption

1.0 Background

The Pacific Gas and Electric Company (the licensee) is the holder of Facility Operating License Nos. DPR–80 and DPR–82, which authorize operation of the Diablo Canyon Power Plant (facility or DCPP), Unit Nos. 1 and 2, respectively. The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two pressurized water reactors located in San Luis Obispo County, California.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), part 50, § 50.68(b)(1) sets forth the following requirement that must be met, in lieu of a monitoring system capable of detecting criticality events.

Plant procedures shall prohibit the handling and storage at any one time of more fuel assemblies than have been determined to be safely subcritical under the most adverse moderation conditions feasible by unborated water.

The licensee is unable to satisfy the above requirement for handling of the 10 CFR part 72 licensed contents of the Holtec HI–STORM 100 Cask System. Section 50.12(a) allows licensees to apply for an exemption from the requirements of 10 CFR part 50 if the regulation is not necessary to achieve the underlying purpose of the rule and other conditions are met. The licensee stated in the application that compliance with 10 CFR 50.68(b)(1) is not necessary for handling the 10 CFR Part 72 licensed contents of the cask system to achieve the underlying purpose of the rule.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Therefore, in determining the acceptability of the licensee's exemption request, the staff has performed the following regulatory, technical, and legal evaluations to satisfy the requirements of 10 CFR 50.12 for granting the exemption.

3.1 Regulatory Evaluation

The DCPP Technical Specifications (TS) currently permit the licensee to store spent fuel assemblies in high-density storage racks in each spent fuel pool (SFP). In accordance with the provisions of 10 CFR 50.68(b)(4), the licensee takes credit for soluble boron for criticality control and ensures that the effective multiplication factor (k_{eff}) of the SFP does not exceed 0.95, if flooded with borated water. 10 CFR 50.68(b)(4) also requires that if credit is taken for soluble boron, the k_{eff} must remain below 1.0 (subcritical), if flooded with unborated water. However, the licensee is unable to satisfy the requirement to maintain the k_{eff} below 1.0 (subcritical) with unborated water, which is also the requirement of 10 CFR 50.68(b)(1). Therefore, the licensee's request for exemption from 10 CFR 50.68(b)(1) proposes to permit the licensee to perform spent fuel loading, unloading, and handling operations related to dry cask storage, without being subcritical under the most adverse moderation conditions feasible by unborated water.

Title 10 of the Code of Federal Regulations, part 50, Appendix A, ''General Design Criteria (GDC) for Nuclear Power Plants,'' provides a list of the minimum design requirements for nuclear power plants. According to GDC 62, ''Prevention of criticality in fuel storage and handling,'' the licensee must limit the potential for criticality in the fuel handling and storage system by physical systems or processes.

Section 50.68 of 10 CFR part 50, ''Criticality accident requirements,'' provides the NRC requirements for maintaining subcritical conditions in SFPs. Section 50.68 provides criticality control requirements which, if satisfied, ensure that an inadvertent criticality in the SFP is an extremely unlikely event. These requirements ensure that the licensee has appropriately conservative criticality margins during handling and storage of spent fuel. Section 50.68(b)(1) states, ''Plant procedures shall prohibit the handling and storage at any one time of more fuel assemblies than have been determined to be safely subcritical under the most adverse moderation conditions feasible by unborated water.'' Specifically, 10 CFR 50.68(b)(1) ensures that the licensee will maintain the pool in a subcritical condition during handling and storage operations without crediting the soluble boron in the SFP water.

The licensee has submitted a license application to construct and operate an Independent Spent Fuel Storage Installation (ISFSI) at DCPP. The ISFSI would permit the licensee to store spent fuel assemblies in large concrete dry storage casks. In order to transfer the spent fuel assemblies from the SFP to the dry storage casks, the licensee must first transfer the assemblies to a Multi-Purpose Canister (MPC) in the cask pit area of the SFP. The licensee performed criticality analyses of the MPC fully loaded with fuel having the highest permissible reactivity, and determined that a soluble boron credit was necessary to ensure that the MPC would remain subcritical in the SFP. Since the licensee is unable to satisfy the requirement of 10 CFR 50.68(b)(1) to ensure subcritical conditions during handling and storage of spent fuel assemblies in the pool with unborated water, the licensee identified the need for an exemption from the 10 CFR 50.68(b)(1) requirement to support MPC loading, unloading, and handling operations, without being subcritical under the most adverse moderation conditions feasible by unborated water.

The staff evaluated the possibility of an inadvertent criticality of the spent

nuclear fuel at DCPP during MPC loading, unloading, and handling. The staff has established a set of acceptance criteria that, if met, satisfy the underlying intent of 10 CFR 50.68(b)(1). In lieu of complying with 10 CFR 50.68(b)(1), the staff determined that an inadvertent criticality accident is unlikely to occur if the licensee meets the following five criteria:

The cask criticality analyses are based on the following conservative assumptions:

a. All fuel assemblies in the cask are unirradiated and at the highest permissible enrichment,

b. Only 75 percent of the Boron-10 in the Boral panel inserts is credited,

c. No credit is taken for fuel-related burnable absorbers, and

d. The cask is assumed to be flooded with moderator at the temperature and density corresponding to optimum moderation.

2. The licensee's ISFSI TSs require the soluble boron concentration to be equal to or greater than the level assumed in the criticality analysis and surveillance requirements necessitate the periodic verification of the concentration both prior to and during loading and unloading operations.

3. Radiation monitors, as required by GDC 63, ''Monitoring Fuel and Waste Storage,'' are provided in fuel storage and handling areas to detect excessive radiation levels and to initiate appropriate safety actions.

4. The quantity of other forms of special nuclear material, such as sources, detectors, etc., to be stored in the cask will not increase the effective multiplication factor above the limit calculated in the criticality analysis.

5. Sufficient time exists for plant personnel to identify and terminate a boron dilution event prior to achieving a critical boron concentration in the MPC. To demonstrate that it can safely identify and terminate a boron dilution event, the licensee must provide the following:

a. A plant-specific criticality analysis to identify the critical boron concentration in the cask based on the highest reactivity loading pattern.

b. A plant-specific boron dilution analysis to identify all potential dilution pathways, their flowrates, and the time necessary to reach a critical boron concentration.

c. A description of all alarms and indications available to promptly alert operators of a boron dilution event.

d. A description of plant controls that will be implemented to minimize the potential for a boron dilution event.

e. A summary of operator training and procedures that will be used to ensure that operators can quickly identify and terminate a boron dilution event.

3.2 Technical Evaluation

In determining the acceptability of the licensee's exemption request, the staff reviewed three aspects of the licensee's analyses: (1) Criticality analyses submitted to support the ISFSI license application, (2) boron dilution analysis, and (3) legal basis for approving the exemption. For each of the aspects, the staff evaluated whether the licensee's analyses and methodologies provide reasonable assurance that adequate safety margins are developed and can be maintained in the DCPP SFP during loading of spent fuel into canisters for dry cask storage.

3.2.1 Criticality Analyses

For evaluation of the acceptability of the licensee's exemption request, the staff reviewed the criticality analyses provided by the licensee in support of its ISFSI license application. Chapter 6, ''Criticality Evaluation,'' of the HI–STORM Final Safety Analysis Report (HI–STORM FSAR) contains detailed information regarding the methodology, assumptions, and controls used in the criticality analysis for the MPCs to be used at DCPP. The staff reviewed the information contained in Chapter 6 as well as information provided by the licensee in its exemption request to determine if Criterion 1 through 4 of Section 3.1 were satisfied.

First, the staff reviewed the methodology and assumptions used by the licensee in its criticality analysis to determine if Criterion 1 was satisfied. The licensee provided a detailed list of the assumptions used in the criticality analysis in Chapter 6 of the HI–STORM FSAR. The licensee stated that it took no credit in the criticality analyses for burnup or fuel-related burnable absorbers. The licensee also stated that all assemblies were analyzed at the highest permissible enrichment. Additionally, the licensee stated that all criticality analyses for a flooded MPC were performed at temperatures and densities of water corresponding to optimum moderation conditions. Finally, the licensee stated that it only credited 75 percent of the Boron-10 content for the fixed neutron absorber, Boral, in the MPC. Based on its review of the criticality analyses contained in Chapter 6 of the HI–STORM FSAR, the staff finds that the licensee has satisfied Criterion 1.

Second, the staff reviewed the proposed Diablo Canyon ISFSI TS. The licensee's criticality analyses credit soluble boron for reactivity control during MPC loading, unloading, and handling operations. Since the boron concentration is a key safety component necessary for ensuring subcritical conditions in the pool, the licensee must have conservative TS capable of ensuring that sufficient soluble boron is present to perform its safety function. The most limiting loading configuration of an MPC requires 2600 parts-per-million (ppm) of soluble boron to ensure the k_{eff} is maintained below 0.95, the regulatory limit relied upon by the staff for demonstrating compliance with the requirements of 10 CFR 72.124(a). Proposed TS 3.2.1, ''Dissolved Boron Concentration,'' requires the soluble boron concentration in the MPC cavity be greater than or equal to the concentrations assumed in the criticality analyses under a variety of MPC loading configurations. In all cases, the boron concentration required by the proposed ISFSI TS ensures that the k_{eff} will be below 0.95 for the analyzed loading configuration. Additionally, the licensee's proposed ISFSI TS contains surveillance requirements which ensure it will verify that the boron concentration is above the required level both prior to and during MPC loading, unloading, and handling operations. Based on its review of the proposed Diablo Canyon ISFSI TSs, the staff finds that the licensee has satisfied Criterion 2.

Third, the staff reviewed the DCPP Final Safety Analysis Report (FSAR) Update and the information provided by the licensee in its exemption request to ensure that it complies with GDC 63. GDC 63 requires that licensees have radiation monitors in fuel storage and associated handling areas to detect conditions that may result in a loss of residual heat removal capability and excessive radiation levels and initiate appropriate safety actions. As a condition of receiving and maintaining an operating license, the licensee must comply with GDC 63. The staff reviewed the DCPP FSAR Update and exemption request to determine whether it had provided sufficient information to demonstrate continued compliance with GDC 63. Based on its review of both documents, the staff finds that the licensee complies with GDC 63 and has satisfied Criterion 3.

Finally, as part of the criticality analysis review, the staff evaluated the storage of non-fuel related material in an MPC. The staff evaluated the potential to increase the reactivity of an MPC by loading it with materials other than spent nuclear fuel and fuel debris. Section 2.0, ''Approved Contents,'' of the proposed Diablo Canyon ISFSI TS limits the cask contents to spent nuclear fuel, fuel debris, and non-fuel hardware.

The Diablo Canyon ISFSI FSAR Tables 10.2–1 through 10.2–4 provide limitations on the materials that can be stored in the various MPC designs intended to be used at the Diablo Canyon ISFSI. The staff determined that the loading limitations described in Tables 10.2–1 through 10.2–4 will ensure that non-fuel hardware loaded in the MPCs will not result in a reactivity increase. Based on its review of the loading restrictions for non-fuel hardware, the staff finds that the licensee has satisfied Criterion 4.

3.2.2 Boron Dilution Analysis

Since the licensee's ISFSI application relies on soluble boron to maintain subcritical conditions within the MPCs during loading, unloading and handling operations, the staff reviewed the licensee's boron dilution analysis to determine whether appropriate controls, alarms, and procedures were available to identify and terminate a boron dilution accident prior to reaching a critical boron concentration.

At the staff's request, the licensee provided additional information describing the boron dilution analysis it performed. First, the licensee performed a criticality analysis to determine the DCPP critical boron concentration, 1720 ppm, during MPC loading, unloading, and handling operations. Therefore, the DCPP SPF boron concentration would have to decrease from the ISFSI TS limit of 2600 ppm to the critical boron concentration 1720 ppm before SPF criticality is possible. This analysis assumed that a fully loaded MPC–32 canister containing fresh fuel of the maximum permissible enrichment is uniformly diluted to the critical boron concentration. The licensee based the remainder of its boron dilution analysis and its preventive and mitigative actions on preventing the MPC from reaching this concentration.

The licensee referenced a detailed analysis of the boron dilution event previously performed for DCPP and submitted to the NRC. In this analysis, the licensee determined all of the potential dilution pathways for adding makeup water to the DCPP SFP. The pathway with the maximum flowrate is from the demineralized water system to the SFP via valve 803, which can provide a maximum flowrate of 494 gallons per minute (gpm). Based on this maximum flowrate, the licensee calculated a time line for the boron dilution event, and determined that, starting from the SFP low level alarm setpoint, it would take 39 minutes to reach the SFP high level alarm. It would take an additional 10 minutes before the SFP began to overflow. Finally, approximately five hours after the SFP high level alarm setpoint was reached, the critical boron concentration would be achieved.

To demonstrate that it has ample time and opportunity to identify and terminate a boron dilution event, the licensee described the alarms, procedures, and administrative controls it has in place. The licensee described the alarms available to operators to identify a boron dilution event. The SFP high level and low level alarms are annunciated in the control room and the operator response is described in a response procedure. Additionally, operators are trained to terminate any boron dilution source within one-half hour of receiving the high level alarm. In addition to the high level alarm, the operators would receive indication of a boron dilution event from the liquid waste systems alarms caused by the overflowing pool water ending up in the fuel handling building floor drains. As part of its pool monitoring program, operations personnel perform rounds in the SFP area once every shift where they check the level of the pool and the conditions around the pool. Also, while cask loading operations are in progress, numerous plant personnel would be working next to the SFP where they could easily identify any level changes. The licensee stated that during any delays where the SFP is not continuously monitored, exceeding those for normal shift changes and breaks, either trained personnel will be assigned to monitor the SFP or the frequency of operator rounds will be increased.

The licensee stated that it will implement additional temporary administrative controls while the MPC is in the SFP to minimize the possibility of a boron dilution event. The licensee stated that except for the primary water station near the SFP, which is used for the decontamination process and rinsing dry cask storage equipment as it is removed from the SFP, at least one valve in each potential flow path of unborated water to the SFP will be closed and tagged out. As an additional precaution, the licensee will double isolate the flow path with the highest potential flowrate of 494 gpm. The licensee will close and tag out two valves in this flow path to minimize the potential that it can cause a boron dilution event.

Finally, to ensure that operators are capable of identifying and terminating a boron dilution event during MPC loading, unloading, and handling operations, the licensee will incorporate the changes made to the operating procedures relating to the SFP boron dilution flow paths into the DCPP operator training program. The licensee stated that the training will emphasize the importance of avoiding any inadvertent additions of unborated water to the SFP, responses to be taken to alarms that may be indicative of a potential boron dilution event during cask loading and fuel movement in the SFP, and identification of the potential for a boron dilution event during decontamination rinsing activities.

Based on the staff's review of the licensee's exemption request, the additional information it provided, and its boron dilution analysis, the staff finds the licensee has provided sufficient information to demonstrate that it satisfies Criterion 5.

3.3 Legal Basis for the Exemption

Pursuant to 10 CFR 50.12, ''Specific Exemption,'' the staff reviewed the licensee's exemption request to determine if the legal basis for granting an exemption had been satisfied, and concluded that the licensee has satisfied the requirements of 10 CFR 50.12. With regards to the six special circumstances listed in 10 CFR 50.12(a)(2), the staff finds that the licensee's exemption request satisfies 50.12(a)(2)(ii), ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.'' Specifically, the staff concludes that since the licensee has satisfied the five criteria in Section 3.1 of this exemption, the application of the rule is not necessary to achieve its underlying purpose in this case.

3.4 Staff Conclusion

Based upon the review of the licensee's exemption request to credit soluble boron during MPC loading, unloading, and handling in the DCPP SFP, the staff concludes that pursuant to 10 CFR 50.12(a)(2) the licensee's exemption request is acceptable. However, the staff limits its approval to the loading, unloading, and handling of the components of the HI–STORM 100 dual-purpose dry cask storage system at DCPP.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants Pacific Gas and Electric Company an exemption

from the requirements of 10 CFR 50.68(b)(1) for the loading, unloading, and handling of the components of the HI–STORM 100 dual-purpose dry cask storage system at DCPP. Any changes to the cask system design features affecting criticality or its supporting criticality analyses will invalidate this exemption.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (69 FR 2012).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 30th day of January 2004.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 04–2486 Filed 2–4–04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–26340; File No. 812–12999]

MetLife Investors Insurance Company, et al.; Notice of Application

January 29, 2004.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to Section 26(c) of the Investment Company Act of 1940 (the ''Act'') approving certain substitutions of securities and an order of exemption pursuant to Section 17(b) of the Act.

Applicants: MetLife Investors Insurance Company (''MetLife Investors''), MetLife Investors Variable Annuity Account One (''VA Account One''), MetLife Investors Variable Life Account One (''VL Account One''), First MetLife Investors Insurance Company (''First MetLife Investors''), First MetLife Investors Variable Annuity Account One (''First VA Account One''), MetLife Investors Insurance Company of California (''MetLife Investors of California''), MetLife Investors Variable Annuity Account Five (''VA Account Five''), MetLife Investors Variable Life Account Five (''VL Account Five''), MetLife Investors USA Insurance Company (''MetLife Investors USA''), MetLife Investors USA Separate Account A (''Separate Account A''), General American Life Insurance Company (''General American''), General American Separate Account Eleven (''Separate Account Eleven''), New England Life Insurance Company (''New England''), New England Variable Life Separate Account (''NEVL Separate Account''), Metropolitan Life Insurance Company (''MetLife'') (together with MetLife Investors, First MetLife Investors, MetLife Investors of California, MetLife Investors USA, General American and New England, the ''Insurance Companies''), Metropolitan Life Separate Account UL (''Separate Account UL''), Metropolitan Life Separate Account E (''Separate Account E''), Security Equity Separate Account Thirteen (''Separate Account Thirteen'') (together with VA Account One, VL Account One, First VA Account One, VA Account Five, VL Account Five, Separate Account A, Separate Account Eleven, NEVL Separate Account, Separate Account UL, and Separate Account E, the ''Separate Accounts''), Met Investors Series Trust (''MIST'') and Metropolitan Series Fund, Inc. (''Met Series Fund'') (MIST and Met Series Fund are the ''Investment Companies''). The Insurance Companies and the Separate Accounts are the ''Substitution Applicants.'' The Insurance Companies, the Separate Accounts and the Investment Companies are the ''Section 17 Applicants.''

Filing Date: The application was filed on August 5, 2003, and amended on January 22, 2004.

Summary of Application: The Substitution Applicants request an order pursuant to Section 26(c) of the Act to permit certain unit investment trusts to substitute shares of certain portfolios of MIST and Met Series Fund (collectively, the ''Replacement Funds'') for shares of certain portfolios of the AIM Variable Insurance Funds (''AIM Fund''), the Alger American Fund (''Alger Fund''), the AllianceBernstein Variable Products Series Fund, Inc. (''AllianceBernstein Fund''), the American Century Variable Portfolios, Inc. (''American Century Fund''), Dreyfus Variable Investment Fund (''Dreyfus Fund''), Federated Insurance Series (''Federated Fund''), Variable Insurance Products Fund (''Variable Fund''), Franklin Templeton Variable Insurance Products Trust (''Franklin Templeton Fund''), Goldman Sachs Variable Insurance Trust (''Goldman Sachs Fund''), INVESCO Variable Investment Funds, Inc. (''INVESCO Fund''), MFS Variable Insurance Trust (''MFS Fund''), Liberty Variable Investment Trust (''Liberty Fund''), Oppenheimer Variable Account Funds (''Oppenheimer Funds''), Putnam Variable Trust (''Putnam Funds''), Scudder Variable Series I (''Scudder I Fund''), Scudder Variable Series II (''Scudder II Fund''), and Van Kampen Life Investment Trust (''Van Kampen Fund'') (collectively, the ''Existing Funds'') currently held by those unit investment trusts. The shares are held by the unit investment trusts to fund certain group and individual variable annuity contracts and variable life insurance policies (collectively, the ''Contracts'') issued by the Insurance Companies. The Section 17 Applicants request an order of the Commission pursuant to Section 17(b) of the Act exempting them from Section 17(a) of the Act to the extent necessary to permit the Investment Companies to carry out certain substitutions by the in-kind purchases and sales of shares of the Replacement Fund.

Hearing or Notification of Hearing: An order granting the amended and restated application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission 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 February 23, 2004, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, Richard C. Pearson, Esq., MetLife Investors Insurance Company, 22 Corporate Plaza Drive, Newport Beach, California 92660. Copy to Robert N. Hickey, Esq., Sullivan & Worcester LLP, 1666 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Thu Ta, Senior Counsel, or Lorna J. MacLeod, Branch Chief, at 202–942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW., Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representations

1. MetLife Investors is a stock life insurance company organized in 1981 under the laws of Missouri. MetLife Investors is an indirect wholly owned subsidiary of MetLife. MetLife Investors

is the depositor and sponsor of VA Account One and VL Account One. MetLife Investors Distribution Company, an affiliate of MetLife, is the distributor of contracts issued by MetLife Investors.

2. VA Account One is a segregated asset account of MetLife Investors, established under Missouri law in 1987. VA Account One is registered under the Act as a unit investment trust. The assets of VA Account One support certain Contracts. Security interests in the Contracts have been registered under the Securities Act of 1933. VA Account One is currently divided into 94 sub-accounts, 30 of which reflect the investment performance of a corresponding series of MIST or Met Series Fund and 64 of which reflect the performance of registered investment companies managed by advisers that are not affiliated with VA Account One (except, that, in some instances, VA Account One may own more that 5% of such investment company).

3. VA Account One is administered and accounted for as part of the general business of MetLife Investors. The income, gains, or losses of VA Account One are credited to or charged against the assets of VA Account One in accordance with the terms of the Contracts, without regard to the income, gains, or losses of MetLife Investors.

4. VL Account One is a segregated asset account of MetLife Investors, established under Missouri law in 1991. VL Account One is registered under the Act as a unit investment trust. The assets of VL Account One support certain Contracts. Security interests in the Contracts have been registered under the Securities Act of 1933. VL Account One is currently divided into 64 sub-accounts, 26 of which reflect the investment performance of a corresponding series of MIST or Met Series Fund and 38 of which reflect the performance of registered investment companies managed by advisers that are not affiliated with VL Account One (except, that, in some instances, VL Account One may own more that 5% of such investment company).

5. VL Account One is administered and accounted for as part of the general business of MetLife Investors. The income, gains, or losses of VL Account One are credited to or charged against the assets of VL Account One in accordance with the terms of the Contracts, without regard to the income, gains, or losses of MetLife Investors.

6. First MetLife Investors is a stock life insurance company organized in 1992 under the laws of New York. First MetLife Investors is an indirect wholly owned subsidiary of MetLife. First MetLife Investors is the depositor and sponsor of First VA Account One. MetLife Investors Distribution Company, an affiliate of MetLife, is the distributor of contracts issued by First MetLife Investors.

7. First VA Account One is a segregated asset account of First MetLife Investors, established under New York law in 1992. First VA Account One is registered under the Act as a unit investment trust. The assets of First VA Account One support certain Contracts. Security interests in the Contracts have been registered under the Securities Act of 1933. First VA Account One is currently divided into 82 sub-accounts, 30 of which reflect the investment performance of a corresponding series of MIST or Met Series Fund and 52 of which reflect the performance of registered investment companies managed by advisers that are not affiliated with First VA Account One (except, that, in some instances, First VA Account One may own more that 5% of such investment company).

8. First VA Account One is administered and account for as part of the general business of First MetLife Investors. The income, gains, or losses of First VA Account One are credited to or charged against the assets of First VA Account One in accordance with the terms of the Contracts, without regard to the income, gains, or losses of First MetLife Investors.

9. MetLife Investors of California is a stock life insurance company organized in 1972 under the laws of California. MetLife Investors of California is an indirect wholly owned subsidiary of MetLife. MetLife Investors of California is the depositor and sponsor of VA Account Five and VL Account Five. MetLife Investors Distribution Company, an affiliate of MetLife, is the distributor of contracts issued by MetLife Investors of California.

10. VA Account Five is a segregated asset account of MetLife Investors of California, established under California law in 1992. VA Account Five is registered under the Act as a unit investment trust. The assets of VA Account Five support certain Contracts. Security interests under the Contracts have been registered under the Securities Act of 1933. VA Account Five is currently divided into 77 sub-accounts, 29 of which reflect the investment performance of a corresponding series of MIST or Met Series Fund and 48 of which reflect the performance of registered investment companies managed by advisers that are not affiliated with VA Account Five (except, that, in some instances, VA Account Five may own more that 5% of such investment company).

11. VA Account Five is administered and accounted for as part of the general business of MetLife Investors of California. The income, gains, or losses of VA Account Five are credited to or charged against the assets of VA Account Five in accordance with the terms of the Contracts, without regard to the income, gains, or losses of MetLife Investors of California.

12. VL Account Five is a segregated asset account of MetLife Investors of California, established under California law in 1992. VL Account Five is registered under the Act as a unit investment trust. The assets of VL Account Five support certain Contracts. Security interests in the Contracts have been registered under the Securities Act of 1933. VL Account Five is currently divided into 64 sub-accounts, 26 of which reflect the investment performance of a corresponding series of MIST or Met Series Fund and 38 of which reflect the performance of registered investment companies managed by advisers that are not affiliated with VL Account Five (except, that, in some instances, VL Account Five may own more than 5% of such investment company).

13. VL Account Five is administered and accounted for as part of the general business of MetLife Investors of California. The income, gains, or losses of VL Account Five are credited to or charged against the assets of VL Account Five in accordance with the terms of the Contracts, without regard to the income, gains, or losses of MetLife Investors of California.

14. MetLife Investors USA is a stock life insurance company organized in 1960 under the laws of Delaware. MetLife Investors USA is an indirect wholly owned subsidiary of MetLife. MetLife Investors USA is the depositor and sponsor of Separate Account A. MetLife Investors Distribution Company, an affiliate of MetLife, is the distributor of contracts issued by MetLife Investors USA.

15. Separate Account A is a segregated asset account of MetLife Investors USA, established under Delaware law in 1980. Separate Account A is registered under the Act as a unit investment trust. The assets of Separate Account A support certain Contracts. Security interests under the Contracts have been registered under the Securities Act of 1933. Separate Account A is currently divided into 44 sub-accounts, 18 of which reflect the investment performance of a corresponding series of MIST or Met Series Fund and 26 of which reflect the

performance of registered investment companies managed by advisers that are not affiliated with Separate Account A (except, that, in some instances, Separate Account A may own more than 5% of such investment company).

16. Separate Account A is administered and accounted for as part of the general business of MetLife Investors USA. The income, gains, or losses of Separate Account A are credited to or charged against the assets of Separate Account A in accordance with the terms of the Contracts, without regard to the income, gains, or losses of MetLife Investors USA.

17. General American is a stock life insurance company organized in 1933 under the laws of Missouri. General American is an indirect wholly owned subsidiary of MetLife. General American is the depositor and sponsor of Separate Account Eleven. General American Distributors, Inc., an affiliate of MetLife, is the distributor of Contracts issued by New England.

18. Separate Account Eleven is a segregated asset account of General American, established under Missouri law in 1985. Separate Account Eleven is registered under the Act as a unit investment trust. The assets of Separate Account Eleven support certain Contracts. Security interests under the Contracts have been registered under the Securities Act of 1933. Separate Account Eleven is currently divided into 47 sub-accounts, 27 of which reflect the investment performance of a corresponding series of MIST or Met Series Fund and 20 of which reflect the performance of registered investment companies managed by advisers that are not affiliated with Separate Account Eleven (except, that in some instances, Separate Account Eleven may own more than 5% of such investment company).

19. Separate Account Eleven is administered and accounted for as part of the general business of General American. The income, gains, or losses of Separate Account Eleven are credited to or charged against the assets of Separate Account Eleven in accordance with the terms of the Contracts, without regard to the income, gains, or losses of General American.

20. New England is a stock life insurance company organized in 1980 under the laws of Delaware and re-domesticated in 1996 in Massachusetts. New England is an indirect wholly owned subsidiary of MetLife. New England is the depositor and sponsor of NEVL Separate Account. New England Securities Corporation, an affiliate of MetLife, is the distributor of Contracts issued by New England.

21. NEVL Separate Account is a segregated asset account of New England, established under Delaware law in 1992 and re-domesticated in Massachusetts in 1996. NEVL Separate Account is registered under the Act as a unit investment trust. The assets of NEVL Separate Account support certain Contracts. Security interests under the Contracts have been registered under the Securities Act of 1933. NEVL Separate Account is currently divided into 43 sub-accounts, 36 of which reflect the investment performance of a corresponding series of MIST or Met Series Fund and 7 of which reflect the performance of registered investment companies managed by advisers that are not affiliated with NEVL Separate Account (except, that in some instances, NEVL Separate Account may own more than 5% of such investment company).

22. NEVL Separate Account is administered and accounted for as part of the general business of New England. The income, gains, or losses of NEVL Separate Account are credited to or charged against the assets of NEVL Separate Account in accordance with the terms of the Contracts, without regard to the income, gains, or losses of New England.

23. MetLife is a stock life insurance company organized in 1868 under the laws of New York. MetLife is a leading provider of insurance and financial products and services to individual and group customers. MetLife is a wholly owned subsidiary of MetLife, Inc., a publicly traded company. MetLife is the depositor and sponsor of Separate Account UL, Separate Account E, and Separate Account Thirteen. MetLife is the distributor of contracts issued by MetLife.

24. Separate Account UL is a segregated asset account of MetLife, established under New York law in 1988. Separate Account UL is registered under the Act as a unit investment trust. The assets of Separate Account UL support certain Contracts. Security interests under the Contracts have been registered under the Securities Act of 1933. Separate Account UL is currently divided into 56 sub-accounts, 41 of which reflect the investment performance of a corresponding series of MIST or Met Series Fund and 15 of which reflect the performance of registered investment companies managed by advisers that are not affiliated with Separate Account UL (except, that in some instances, Separate Account UL may own more than 5% of such investment company).

25. Separate Account UL is administered and accounted for as part of the general business of MetLife. The income, gains, or losses of Separate Account UL are credited to or charged against the assets of Separate Account UL in accordance with the terms of the Contracts, without regard to the income, gains, or losses of MetLife.

26. Separate Account E is a segregated asset account of MetLife, established under New York law in 1983. Separate Account E is registered under the Act as a unit investment trust. The assets of Separate Account E support certain Contracts. Security interests under the Contracts have been registered under the Securities Act of 1933. Separate Account E is currently divided into 51 sub-accounts, 40 of which reflect the investment performance of a corresponding series of MIST or Met Series Fund and 11 of which reflect the performance of registered investment companies managed by advisers that are not affiliated with Separate Account E (except that in some instances, Separate Account E may own more than 5% of such investment company).

27. Separate Account E is administered and accounted for as part of the general business of MetLife. The income, gains, or losses of Separate Account E are credited to or charged against the assets of Separate Account E in accordance with the terms of the Contracts, without regard to the income, gains, or losses of MetLife.

28. Separate Account Thirteen is a segregated asset account of MetLife, established under New York law in 1994. Separate Account Thirteen is registered under the Act as a unit investment trust. The assets of Separate Account Thirteen support certain Contracts. Security interests under the Contracts have been registered under the Securities Act of 1933. Separate Account Thirteen is currently divided into 18 sub-accounts, 2 of which reflect the investment performance of a corresponding series of MIST or Met Series Fund and 16 of which reflect the performance of a registered investment companies managed by advisers that are not affiliated with Separate Account Thirteen (except that in some instances, Separate Account 13 may own more than 5% of such investment company).

29. Separate Account Thirteen is administered and accounted for as part of the general business of MetLife. The income, gains, or losses of Separate Account Thirteen are credited to or charged against the assets of Separate Account Thirteen in accordance with the terms of the Contracts, without regard to the income, gains, or losses of MetLife.

30. MIST is registered under the Act as an open-end management investment company of the series type, and its

securities are registered under the Securities Act of 1933. MIST currently offers 21 separate investment portfolios, nine of which would be involved in the proposed substitutions. Each MIST series involved in the proposed substitutions offers up to three classes of shares, two of which (Class A and Class B) are involved in the proposed substitutions. Some of the proposed substitutions involve only one class of shares; others involve both Class A and Class B shares. MIST series Class A Shares have not adopted a plan pursuant to Rule 12b-1 under the Act. Each MIST series Class B shares has adopted a Rule 12b-1 distribution plan whereby up to .50% of a Fund's assets attributable to the Class B shares may be used to finance the distribution of the Fund's shares. Currently, the 12b-1 fees for the Class B shares of each MIST series are .25%.

31. MetLife Investors Distribution Company, an affiliate of MetLife, is the principal underwriter for MIST. Met Investors Advisory LLC, an affiliate of MetLife, serves as the investment adviser to each portfolio of MIST. Pursuant to an exemptive order issued to New England Funds Trust I, *et al.*, Met Investors Advisory LLC is authorized to enter into and amend sub-advisory agreements without shareholder approval under certain conditions (the ''Multi-Manager Order'').

32. The following Replacement Funds are portfolios of MIST: Lord Abbett Growth and Income Portfolio (sub-advised by Lord Abbett & Co. LLC (''Lord Abbett'')); Third Avenue Small Cap Value Portfolio (sub-advised by Third Avenue Management, LLC); MFS Research International Portfolio (sub-advised by Massachusetts Financial Services Company (''MFS'')); Oppenheimer Capital Appreciation Portfolio (sub-advised by Oppenheimer Funds, Inc.); T. Rowe Price Mid-Cap Growth Portfolio (sub-advised by T. Rowe Price Associates, Inc. (''T. Rowe Price'')); Lord Abbett Bond Debenture Portfolio (sub-advised by Lord Abbett); PIMCO Total Return Portfolio (sub-advised by Pacific Investment Management LLC); Lord Abbett Mid-Cap Value Portfolio (sub-advised by Lord Abbett); and Janus Aggressive Growth Portfolio (sub-advised by Janus Capital Management LLC).

33. Met Investors Advisory LLC has entered into agreement with MIST whereby, for the period ended April 30, 2004 and any subsequent year in which the agreement is in effect, the total annual operating expenses of the following Replacement Funds (excluding interest, taxes, brokerage commissions and Rule 12b-1 fees) will not exceed the amounts stated. These expense caps may be extended by the investment adviser from year to year as follows:

Third Avenue Small Cap Value Portfolio	1.00%
MFS Research International Portfolio	1.10%
Oppenheimer Capital Appreciation Portfolio	0.75%
Lord Abbett Bond Debenture Portfolio	0.75%
T. Rowe Price Mid-Cap Growth Portfolio	0.95%
Janus Aggressive Growth Portfolio	0.90%

34. Met Series Fund is registered under the Act as an open-end management investment company of the series type, and its securities are registered under the Securities Act of 1933. Met Series Fund currently offers 36 separate investment portfolios, six of which would be involved in the proposed substitutions. Each Met Series Fund series involved in the proposed substitutions has up to three classes of shares, two of which (Class A and Class B) are involved in the proposed substitutions. Some of the proposed substitutions involve only one class of shares; others involve both Class A and Class B shares. Met Series Fund series Class A Shares have not adopted a plan pursuant to Rule 12b–1 under the Act. Each Met Series Fund series Class B shares has adopted a Rule 12b–1 distribution plan whereby up to .50% of a Fund's assets attributable to the Class B shares may be used to finance the distribution of the Fund's shares. Currently, the 12b–1 fees for the Class B shares of each Met Series Fund series are .25%.

35. MetLife is the principal underwriter for Met Series Fund. MetLife Advisers, LLC, an affiliate of MetLife, serves as the investment adviser to each portfolio of Met Series Fund. Pursuant to the Multi-Manager Order, MetLife Advisers, LLC is authorized to enter into and amend sub-advisory agreements without shareholder approval under certain conditions.

36. The following Replacement Funds are portfolios of Met Series Fund: T. Rowe Price Small Cap Growth Portfolio (sub-advised by T. Rowe Price); MFS Total Return Portfolio (sub-advised by MFS); State Street Research Money Market Portfolio (sub-advised by State Street Research and Management Company); T. Rowe Price Large Cap Growth Portfolio (sub-advised by T. Rowe Price); Salomon Brothers Strategic Bond Opportunities Portfolio (sub-advised by Salomon Brothers Asset Management Inc.); and State Street Research Bond Income (sub-advised by State Street Research & Management Company).

37. The annuity contracts are group and individual flexible premium fixed and variable deferred and immediate annuity contracts. Many of the annuity contracts provide that a maximum of 12 transfers can be made every year without charge or that a $10 contractual limit charge will apply or that no transfer charge will apply. During the accumulation period, Contract owners may transfer between the variable account options or from the variable account options to the fixed account option. Some of the Contracts have no contractual limitation on transfers during the accumulation period. Some Contract owners may make transfers from the fixed account option subject to certain minimum transfer amounts ($500 or the total interest in the account) and maximum limitations. Some of the Contracts impose Contract withdrawal charges upon the transfer of any amounts from the fixed account to the variable account or have additional restrictions on transfers from the fixed account to the variable account. During the income period or under the immediate annuity, Contract owners may currently make unlimited transfers among investment portfolios and from investment portfolios to the fixed account option. No fees or other charges are currently imposed on transfers for most of the Contracts. Under certain annuity contracts, the Insurance Companies reserve the right to impose additional restrictions on transfers. All transfer limits will be suspended in connection with the substitutions.

38. Under the life insurance policies, policy owners may allocate account value among the General Account and the available investment portfolios. All or part of the account value may be transferred from any investment portfolio to another investment portfolio, or to the General Account. The minimum amount that can be transferred is the lesser of the minimum transfer amount (which currently ranges from $1 to $500), or the total value that is an investment portfolio or the General Account. Certain policies provide that twelve transfers in a policy year can be made without charge. A transfer fee of $25 is payable for additional transfers in a policy year, but these fees are not currently charged. Other policies do not currently limit the number of transfers; however, the Insurance Companies reserve the right to limit transfers to four or twelve (depending on the policy) per policy year and to impose a $25 charge on transfers in excess of 12 per year or on any transfer. Under the policies, the

Insurance Companies reserve the right to impose additional restrictions on transfers. All transfer limits will be suspended in connection with the substitutions.

39. Under most of the Contracts, the Insurance Companies reserve the right to substitute shares of one fund with shares of another, including a fund of a different registered investment company. Certain variable annuity contracts issued by MetLife Investors USA provide, however, that the Insurance Company cannot substitute investment options without the approval of a majority in interest of owners of Contracts who have allocated funds to the investment option to be replaced. The substitutions affected by this requirement are Separate Account A's investments in: AIM V.I. Balanced Fund, AIM V.I. Premier Equity Fund, Alger American Small Capitalization Portfolio, Federated American Leaders Fund II, Federated Equity Income Fund II, Federated High Income Bond Fund II, Federated Growth Strategy Fund II, VIP Asset Manager Portfolio, MFS Research Series, Oppenheimer Strategic Bond Fund/VA, Oppenheimer Main Street Fund/VA, Oppenheimer Bond Fund/VA, Oppenheimer Money Fund/VA, Oppenheimer Main Street Small Cap Growth Fund/VA and Growth and Income Portfolio. The Substitution Applicants represent that they will seek the requisite approval of Contract owners (as described below).

40. Each Insurance Company, on its behalf and on behalf of the Separate Accounts, proposes to make certain substitutions of shares of the Existing Funds held in sub-accounts of its respective Separate Accounts for shares of the Replacement Funds. The proposed substitutions involve only Class A shares (or their equivalent), unless otherwise indicated. The proposed substitutions are as follows:

(a) Shares of MFS Total Return Portfolio for shares of AIM V.I. Balanced Fund; (b) shares of MFS Total Return Portfolio for shares of VIP Asset Manager Portfolio; (c) shares of Lord Abbett Growth and Income Portfolio for shares of AIM V.I. Premier Equity Fund (Class A and Class B shares); (d) shares of Lord Abbett Growth and Income Portfolio for shares of AllianceBernstein Value Portfolio (Class B shares only); (e) shares of Lord Abbett Growth and Income Portfolio for shares of VP Income and Growth Fund; (f) shares of Lord Abbett Growth and Income Portfolio for shares of Federated American Leaders Fund II; (g) shares of Lord Abbett Growth and Income Portfolio for shares of Federated Equity Income Fund II; (h) shares of Lord Abbett Growth and Income Portfolio for shares of Goldman Sachs Growth and Income Fund; (i) shares of Lord Abbett Growth and Income Portfolio for shares of Mutual Shares Securities Fund (Class A and Class B shares); (j) shares of Lord Abbett Growth and Income Portfolio for shares of Oppenheimer Main Street Fund/VA; (k) shares of Lord Abbett Growth and Income Portfolio for shares of Putnam VT New Value Fund (Class A and Class B shares); (l) shares of Lord Abbett Growth and Income Portfolio for shares of SVS Dreman High Return Equity Portfolio; (m) shares of Lord Abbett Growth and Income Portfolio for shares of Growth and Income Portfolio; (n) shares of T. Rowe Price Small Cap Growth Portfolio for shares of Alger American Small Capitalization Portfolio; (o) shares of T. Rowe Price Small Cap Growth Portfolio for shares of Franklin Small Cap Fund (Class A and Class B shares); (p) shares of T. Rowe Price Small Cap Growth Portfolio for shares of Oppenheimer Main Street Small Cap Growth Fund/VA; (q) shares of Janus Aggressive Growth Portfolio for shares of AllianceBernstein Premier Growth Portfolio (Class A and Class B shares); (r) shares of Third Avenue Small Cap Value Portfolio for shares of AllianceBernstein Small Cap Value Portfolio (Class B shares only); (s) shares of MFS Research International Portfolio for shares of VP International Fund; (t) shares of MFS Research International Portfolio for shares of Goldman Sachs International Equity Fund; (u) shares of MFS Research International Portfolio for shares of Newport Tiger Fund; (v) shares of MFS Research International Portfolio for shares of Putnam VT International New Opportunities Fund (Class A and Class B shares); (w) shares of MFS Research International Portfolio for shares of International Portfolio (Class A and Class B shares); (x) shares of Lord Abbett Mid-Cap Value Portfolio for shares of VP Value Fund; (y) shares of Oppenheimer Capital Appreciation Portfolio for shares of Appreciation Portfolio (Class A and Class B shares); (z) shares of Oppenheimer Capital Appreciation for shares of Disciplined Stock Portfolio (Class A and Class B shares); (aa) shares of Oppenheimer Capital Appreciation Portfolio for shares of Federated Growth Strategy Fund II; (bb) shares of Oppenheimer Capital Appreciation Portfolio for shares of MFS Research Series (Class A and Class B shares); (cc) shares of Lord Abbett Bond Debenture Portfolio for shares of Federated High Income Bond Fund II; (dd) shares of Lord Abbett Bond Debenture Portfolio for shares of INVESCO VIF'High Yield Fund; (ee) shares of Lord Abbett Bond Debenture Portfolio for shares of Oppenheimer High Income Fund/VA; (ff) shares of T. Rowe Price Large Cap Growth Portfolio for shares of Franklin Large Cap Growth Securities Fund (Class A and Class B shares); (gg) shares of T. Rowe Price Large Cap Growth Portfolio for shares of MFS Emerging Growth Series (Class A and Class B shares); (hh) shares of T. Rowe Price Mid-Cap Growth Portfolio for shares of INVESCO VIF'Dynamics Fund; (ii) shares of PIMCO Total Return Portfolio for shares of MFS Bond Series; (jj) shares of PIMCO Total Return Portfolio for shares of Oppenheimer Strategic Bond Fund/VA; (kk) shares of PIMCO Total Return Portfolio for shares of Templeton Global Income Securities Fund (Class A and Class B shares); (ll) shares of State Street Research Money Market Portfolio for shares of Oppenheimer Money Fund/VA; (mm) shares of Salomon Brothers Strategic Bond Opportunities Portfolio for shares of MFS Strategic Income Series (Class A and Class B shares); and (nn) shares of State Street Research Bond Income Portfolio for shares of Oppenheimer Bond Fund/VA.

41. AIM V.I. Balanced Fund and AIM V.I. Premier Equity Fund are portfolios of the AIM Fund. AIM Advisors, Inc. serves as the adviser to each of the AIM Fund portfolios. Alger American Small Capitalization Portfolio is a portfolio of the Alger Fund. Fred Alger Management, Inc. serves as the adviser to the Alger Fund portfolio. AllianceBernstein Premier Growth Portfolio, AllianceBernstein Value Portfolio, and AllianceBernstein Small Cap Value Portfolio are portfolios of the AllianceBernstein Fund. Alliance Capital Management L.P. serves as the adviser to each of the AllianceBernstein Fund portfolios. VP Income and Growth Fund, VP International Fund, and VP Value Fund are portfolios of the American Century Fund. American Century Investment Management Inc. serves as the adviser to each of the American Century Fund portfolios. Appreciation Portfolio and Disciplined Stock Portfolio are portfolios of Dreyfus Fund. The Dreyfus Corporation serves as the adviser to each of the Dreyfus Fund portfolios. Fayez Sarofin & Co serves as the sub-adviser to the Appreciation Portfolio. Federated American Leaders Fund II, Federated Equity Income Fund II, Federated High Income Bond Fund II, and Federated Growth Strategy Fund II are portfolios of Federated Fund. Federated Investment Management Company serves as the adviser to each of the Federated Fund portfolios. VIP Asset Manager Portfolio

is a portfolio of the Variable Fund. Fidelity Management & Research Company serves as adviser to the Variable Fund portfolio. Franklin Large Cap Growth Securities Fund, Franklin Small Cap Fund, Mutual Shares Securities Fund, and Templeton Global Income Securities Fund are portfolios of the Franklin Templeton Fund. Franklin Mutual Advisers, Inc. serves as the adviser to each of the Franklin Templeton Fund portfolios. Goldman Sachs Growth and Income Fund and Goldman Sachs International Equity Fund are portfolios of the Goldman Sachs Fund. Goldman Sachs Asset Management serves as the adviser to the Goldman Sachs Growth and Income Fund. Goldman Sachs Asset Management International serves as the adviser to the Goldman Sachs International Equity Fund. INVESCO VIF-Dynamics Fund and INVESCO VIF-High Yield Fund are portfolios of the INVESCO Fund. INVESCO Funds Group, Inc. serves as the adviser to each of the INVESCO Fund portfolios. MFS Bond Series, MFS Emerging Growth Series, MFS Research Series, and MFS Strategic Income Series are portfolios of the MFS Fund. Massachusetts Financial Services Company serves as the adviser to each of the MFS Fund portfolios. Newport Tiger Fund is a portfolio of the Liberty Fund. Liberty Advisory Services Corp. serves as the adviser to the Newport Tiger Fund. Newport Fund Management, Inc. serves as the sub-adviser to the Newport Tiger Fund. Oppenheimer Strategic Bond Fund/VA, Oppenheimer Main Street Fund/VA, Oppenheimer High Income Fund/VA, Oppenheimer Bond Fund/VA, Oppenheimer Main Street Small Cap Growth Fund/VA and Oppenheimer Money Fund/VA are portfolios of the Oppenheimer Fund. Oppenheimer Funds, Inc. serves as the adviser to each of the Oppenheimer Fund portfolios. Putnam VT New Value Fund and Putnam VT International New Opportunities Fund are portfolios of the Putnam Fund. Putnam Investment Management, LLC serves as the adviser to each of the Putnam Fund portfolios. International Portfolio is a portfolio of the Scudder I Fund. Deutsche Investment Management Americas, Inc. serves as adviser to the International Portfolio. Deutsche Asset Management Investment Services Ltd. serves as the sub-adviser to the International Portfolio. SVS Dreman High Return Equity Portfolio is a portfolio of the Scudder II Fund. Deutsche Investment Management Americas, Inc. serves as adviser to the SVS Dreman High Return Equity Portfolio. Dreman Value Management LLC serves as the sub-adviser to the SVS Dreman High Return Equity Portfolio. Growth and Income Portfolio is a portfolio of the Van Kampen Fund. Van Kampen Asset Management, Inc. serves as the adviser to the Van Kampen Fund portfolio.

42. The substitutions are expected to provide significant benefits to Contract owners, including improved selection of portfolio managers and simplification of fund offerings through the elimination of overlapping offerings. The Substitution Applicants believe that the sub-advisers to the Replacement Funds overall are better positioned to provide consistent above-average performance for their Funds than are the advisers or sub-advisers of the Existing Funds. At the same time, Contract owners will continue to be able to select among a large number of funds, with a full range of investment objectives, investment strategies, and managers.

43. In addition, many of the Existing Funds are smaller than their respective Replacement Funds. Specifically, in all but two of the proposed substitutions, the Replacement Fund has a greater asset base than the Existing Fund. Moreover, a substantial number of Existing Funds are no longer available as investment options under Contracts previously or currently offered by the Insurance Companies, or, if available, are available only for additional contributions and/or transfers from other investment options under Contracts not currently offered. Thus, there is little likelihood that significant additional assets, if any, will be allocated to those Existing Funds. (More detailed information regarding the amount of each Fund's assets can be found in the Application.)

44. Because the Replacement Funds generally have a larger asset base than their corresponding Existing Funds, various costs such as legal, accounting, printing and trustee fees are spread over a larger base with each Contract owner bearing a smaller portion of the cost than would be the case if the Fund were smaller in size. In addition, there will be significant savings to Contract owners because certain other costs, such as the costs of printing and mailing lengthy periodic reports and prospectuses for the Existing Funds, will be substantially reduced.

45. The Applicants believe that the Replacement Funds have investment objectives, policies, and risk profiles that are the same as, or sufficiently similar to, the corresponding Existing Funds to make those Replacement Funds appropriate candidates as substitutes. Set forth below is a description of the investment objectives and principal investment policies of each Existing Fund and its corresponding Replacement Fund.

Existing fund	Replacement fund
AIM V.I. Balanced Fund—seeks to achieve as high a total return as possible, consistent with preservation of capital. The Fund normally invests a minimum of 50% and a maximum of 70% of its total assets in equity securities and a minimum of 30% and a maximum of 70% of its total assets in non-convertible debt securities. The Fund may invest up to 25% of its total assets in convertible securities and up to 25% of its assets in foreign securities.	MFS Total Return Portfolio—seeks a favorable total return through an investment in a diversified portfolio. The Series normally invests at least 40%, but not more than 75% of net assets in common stocks and related securities. The Series focus on equity securities of large cap companies. At least 25% of the Series' net assets is normally invested in non-convertible fixed-income securities. The Series may invest up to 20% of its net assets in foreign securities and up to 20% of its net assets in non-investment grade debt securities.
VIP Asset Manager Portfolio—seeks to obtain high total return with reduced risk over the long term by allocating its assets among stocks, bonds and short-term instruments. Stocks can range from 30% to 70% of the Portfolio; bonds can range from 20% to 60%; and short-term money market instruments can range from 0% to 50%. Normally the Portfolio's assets are allocated approximately 50% to stocks, 40% to bonds and 10% to money market instruments. The portfolio may also invest foreign securities.	

Existing fund	Replacement fund
AIM V.I. Premier Equity Fund—seeks to achieve long-term growth of capital. Income is a secondary objective. The Fund normally invests at least 80% of its net assets in equity securities. The Fund may also invest in preferred stocks and debt instruments that have prospects for growth of capital and may invest up to 25% of its total assets in foreign securities. The portfolio managers focus on undervalued equity securities.	Lord Abbett Growth and Income Portfolio—seeks long-term growth of capital and income without excessive fluctuation in market value. The Portfolio primarily purchases equity securities of large, (at least $5 billion of market capitalization) seasoned U.S. and multinational companies that are believed to be undervalued.
AllianceBernstein Value Portfolio—seeks long-term growth of capital. The Portfolio invests in equity of market securities of large market capitalization companies that are believed to be undervalued. Up to 15% of the Portfolio's total assets may be invested in foreign securities and up to 20% of its total assets in convertible securities.	
VP Income and Growth Fund—seeks to achieve capital growth by investing in common stocks. Income is a secondary objective. The portfolio managers select stocks primarily from the largest 1,500 publicly traded U.S. companies. Securities are ranked by their value as well as growth potential. The Fund seeks to provide better returns than the S&P 500 without taking on significant additional risks. The portfolio managers attempt to create a dividend yield for the Fund that will be greater than that of the S&P 500.	
Federated American Leaders Fund II—seeks long-term growth of capital. The Fund's secondary objective is to provide income. The Fund uses the value style of investing to select primarily equity securities of large capitalization companies that are in the top 25% of their industry sectors in terms of revenues, are characterized by sound management and have the ability to finance expected growth. Up to 20% of the Fund's assets may be invested in American Depository Receipts.	
Federated Equity Income Fund II—seeks to provide above average income and capital appreciation. The Fund invests primarily in income-producing equity securities including securities convertible into common stocks. The Fund may also purchase securities for their superior growth prospects regardless of dividend. The Fund's holdings ordinarily will be in large and mid-cap companies. The Fund's investment adviser ordinarily uses a ''blend'' style of investing.	
Goldman Sachs Growth and Income Fund—seeks long-term growth of capital and growth of income. Normally, the Fund invests at least 65% of its total assets in equity securities that have favorable prospects for capital appreciation and/or dividend-paying ability. Up to 25% of the Fund's assets may be invested in foreign securities including securities of issues in emerging market countries. The Fund may invest up to 35% of its total assets in fixed income securities.	
Mutual Shares Securities Fund—seeks capital appreciation. Income is a secondary goal. The Fund invests at least 65% of its assets in equity securities believed to be undervalued. The Fund invests primarily in medium and large capitalization companies. The Fund may invest up to 25% of its assets in foreign securities.	
Oppenheimer Main Street Fund/VA—seeks high total return from equity and debt securities. The Fund currently invests mainly in common stocks of U.S. companies of different capitalization ranges, presently focusing on large capitalization issuers. The Fund does not currently emphasize investments in debt securities.	
Putnam VT New Value Fund—seeks long-term capital appreciation. The Fund invests mainly in common stocks of U.S. companies, with a focus on value stocks. Investments are mainly on mid-sized and large companies.	
SVS Dreman High Return Equity Portfolio—seeks a high rate of total return. The Portfolio invests at least 80% of its assets in equity securities. The Portfolio focuses on stocks of large U.S. companies and may at times emphasize the financial services sector or other sectors. The Portfolio's manager looks for companies that are undervalued. Up to 20% of the Portfolio's assets may be invested in ADRs and the securities of companies traded outside the U.S.	
Growth and Income Portfolio—seeks long-term growth of capital and income. Normally, the Portfolio invests primarily in income-producing equity securities including common stocks and convertible securities. Investments may also be made in non-convertible preferred stocks and debt securities. The Portfolio focuses primarily on the security's potential for capital growth and income. The Portfolio's adviser may focus on larger capitalization companies that it believes possesses characteristics for improved evaluation. Up to 25% of the Portfolio's total assets may be invested in foreign securities.	

Existing fund	Replacement fund
Alger American Small Capitalization Portfolio—seeks long-term capital appreciation. The Portfolio invests primarily in equity securities of small capitalization companies that are believed to be fast-growing.	T. Rowe Price Small Cap Growth Portfolio—seeks long-term growth. The Portfolio invests at least 80% of its assets in a diversified group of small capitalization growth companies (i.e., those within the range of, or smaller than, the market capitalization of the small 100 companies in the S&P 500 Index).
Franklin Small Cap Fund—seeks long-term capital growth. The fund invests at least 80% of it assets in small capitalization companies. The Fund's manager pursues a growth strategy. The Fund may invest substantially in the technology sector.	
Oppenheimer Main Street Small Cap Growth Fund/VA—seeks capital appreciation. The Fund invests at least 80% of its assets in common stock of small capitalization U.S. companies that the investment manager believes have favorable business trends or prospects. Investments may include both growth and value stocks.	
AllianceBernstein Premier Growth Portfolio—seeks growth of capital by pursuing aggressive investment policies. The Portfolio invests primarily in the securities of a small number of U.S. companies. The Portfolio looks for companies with superior growth prospects. The Portfolio may invest up to 20% of its assets in foreign securities and up to 20% of it assets in convertible securities that may be below investment grade.	Janus Aggressive Growth Portfolio—seeks long-term growth of capital. The Portfolio invests primarily in common stocks selected for their growth potential. Investments may be made in companies of any size. The Portfolio may invest without limit in foreign securities and up to 35% of its assets in high yield/high risk debt securities. In fact, however, Janus does not invest more than 10% of its assets in foreign securities, and invests only a minimal amount in high yield/high risk debt securities.
AllianceBernstein Small Cap Value Portfolio—seeks long-term growth of capital. The Portfolio invests at least 80% of its net assets in equity securities of small market capitalization companies that are believed to be undervalued. Up to 15% of the Portfolio's total assets may be invested in foreign securities and up to 20% of its total assets in convertible securities.	Third Avenue Small Cap Value Portfolio—seeks long-term capital appreciation. Normally, the Portfolio, which is non-diversified, invests at least 80% of its net assets in equity securities of small companies. The Portfolio seeks to acquire common stocks of well-financed companies at a substantial discount to what the investment adviser believes is their true value.
VP International Fund—seeks capital growth. The portfolio managers look for companies with earnings and revenue growth. The Fund's assets will be primarily invested in common stocks companies in at least three developed countries (excluding the U.S.).	MFS Research International Portfolio—seeks capital appreciation. Normally, at least 65% of the Portfolio's net assets are invested in common stocks and related securities of foreign companies (including up to 25% of its net assets in emerging market issuers) located in at least five countries. The Portfolio seeks companies of any size with favorable growth prospects and attractive valuations.
Goldman Sachs International Equity Fund—seeks long-term capital appreciation. Normally, at least 80% of the Fund's net assets will be invested in equal investments of foreign companies with market capitalizations that are larger than $1 billion. Investments will be made in at least three foreign countries. Investments may be made in the securities of issuers located in developed and emerging market countries. Up to 20% of the Fund's net assets may be invested in fixed-income securities.	
Newport Tiger Fund—seeks capital appreciation. Normally, the Fund invests at least 80% of its assets in stocks of companies located in the ten Tiger countries of Asia. In selecting investments, the Fund typically purchases stocks of quality growth companies.	
Putnam VT International New Opportunities Fund—seeks long-term capital appreciation. The Fund invests mainly in common stocks of companies outside the U.S. The Fund invests in growth stocks of companies of any size located in developed and emerging market countries.	
International Portfolio—seeks long-term growth of capital primarily through diversified holdings of marketable foreign equity securities. The Portfolio invests primarily in common stocks of established companies, listed on foreign exchanges, which are believed to have favorable growth characteristics. The Portfolio will invest in companies in at least three different countries, excluding the U.S.	
VP Value Fund—seeks long-term capital growth. Income is a secondary objective. Normally, at least 65% of the Fund's assets are invested in U.S. equity securities believed to be undervalued. The Fund may invest a portion of its assets in convertible debt securities (which may be rated below investment grade), equity equivalent securities, foreign securities and investment grade debt securities of companies and governments. The VP Value Fund is best characterized as a multi-cap value fund that has historically correlated with mid-cap value indices.	Lord Abbett Mid-Cap Value Portfolio—seeks capital appreciation through investments, primarily in equity securities, which are believed to be undervalued in the marketplace. The Portfolio invests at least 80% of its assets in mid-sized companies with capitalizations of roughly $500 million to $10 billion. The Portfolio invests primarily in common stocks, including convertible securities, of companies with good prospects for improvement in earning trends or asset values that are not yet fully recognized.
Appreciation Portfolio—seeks long-term capital growth consistent with the preservation of capital; current income is a secondary objective. The Portfolio focuses on investing in the common stocks of ''blue chip'' established companies with market capitalization of more than $5 billion, including multinational companies. The Portfolio looks primarily for growth companies.	Oppenheimer Capital Appreciation Portfolio—seeks capital appreciation. The Portfolio mainly invests in common stocks of growth companies of any market capitalization. The Portfolio currently focuses on the securities of mid-cap and large-cap companies. The Portfolio may also purchase the securities of foreign issuers. Although income is not a stated objective of the Oppenheimer Capital Appreciation Portfolio, over 60% of the Portfolio's assets are invested in dividend paying securities.

Existing fund	Replacement fund
Disciplined Stock Portfolio—seeks investment returns (consisting of capital appreciation and income) that are greater than the total return performance of stocks represented by the S&P 500. The Portfolio normally invests at least 80% of its assets in a blended portfolio of growth and value stocks. The Portfolio is structured so that its sector weighings and risk characteristics, such as growth, size and yield, are similar to those of the S&P 500.	
Federated Growth Strategy Fund II—seeks capital appreciation. The Fund invests primarily in common stock (including American Depository Receipts) of companies with market capitalization above $100 million that offer superior growth prospects.	
MFS Research Series—seeks to provide long-term growth of capital and future income. The Series invests at least 80% of its net assets in common stocks and related securities. The Series focuses on companies believed to have favorable prospects for long-term growth, attractive valuations and superior management. The Series may invest in companies of any size, in debt securities rated below investment grade, and in foreign securities, including emerging market securities.	
Federated High Income Bond Fund II—seeks high current income. The Fund invests primarily in a diversified portfolio of high yield, lower rated corporate securities rated below A (including junk bonds) by a nationally recognized rating service. The Fund invests in dollar denominated debt securities issued by U.S. or foreign businesses. There is no minimal acceptable rating for a security to be purchased or held by the Fund and the Fund may purchase and hold unrated securities and securities whose issuers are in default.	Lord Abbett Bond Debenture Portfolio—seeks to provide high current income and the opportunity for capital appreciation to produce a high total return. The Portfolio normally invests substantially all of its net assets in high yield and investment grade debt securities. Up to 80% of the Portfolio's total assets may be invested in junk bonds. At least 20% of the Portfolio's assets must be invested in any combination of investment grade debt securities, U.S. government securities and cash equivalents. Up to 20% of the Portfolio's assets may be invested in foreign securities.
INVESCO VIF—High Yield Fund—seeks to provide a high level of current income by investing in bonds and other debt securities. The Fund also seeks capital appreciation. The Fund normally invests at least 80% of its assets in a diversified portfolio of high yield corporate bonds and preferred stock with below investment grade ratings. There are no limitations on the maturities of the securities assets must be held by the Fund.	
Oppenheimer High Income Fund/VA—seeks a high level of current income from investment in high yield fixed income securities. Under normal market conditions, the Fund invests at least 65%, and may invest without limit, in junk bonds. Investments include fixed income securities of domestic and foreign issuers including issuers in emerging market countries.	
Franklin Large Cap Growth Securities Fund—seeks capital appreciation. Normally, the Fund invests at least 80% of its net assets in the equity securities of large cap companies. The Fund invests in companies that have above-average growth in earnings and revenues. Currently, the Fund may invest between 10% and 15% of its assets in foreign securities and up to 20% of its net assets in investments in small and medium capitalization companies.	T. Rowe Price Large Cap Growth Portfolio—seeks long-term growth of capital and, secondarily, dividend income. Normally, the Portfolio invests at least 80% percent of its assets in the common stocks and other securities of large capitalization companies (i.e., those within the market capitalization range of the Russell 1000 Index). The investment adviser seeks companies that have the ability to pay increasing dividends through strong cash flow.
MFS Emerging Growth Series—seeks to provide long-term growth of capital. Normally the Series invests at least 65% of its net assets in common stocks and related securities of emerging growth companies of any size. The Series may invest in foreign securities including emerging market securities.	
INVESCO VIF-Dynamics Fund—seeks long-term capital growth. The Fund invests at least 65% of its assets in common stock of mid-sized companies. The core of the Fund's portfolio is invested in securities of established companies that are leaders in attractive growth markets with a history of strong returns.	T. Rowe Price Mid-Cap growth. Growth Portfolio—seeks long-term growth of capital. The portfolio invests at least 80% of its net assets in the common stocks of mid-cap companies whose earnings are expected to grow at a faster rate than the average company. While most of the Portfolio's assets will be invested in U.S. common stocks, the Portfolio may also purchase foreign securities.

Existing fund	Replacement fund
MFS Bond Series—seeks to provide as high a level of current income as is believed to be consistent with prudent risk. The Series' secondary objective is to protect shareholders capital. The Series invests at least 80% of its net assets in debt obligations issued by U.S. and foreign (including emerging market) corporations, U.S. government securities and mortgage-backed and asset-backed securities. While the Series may purchase junk bonds, it focuses on investment grade bonds.	PIMCO Total Return Portfolio—seeks maximum total return, consistent with the preservation of capital and prudent investment management. The Portfolio normally invests at least 65% of its assets in a diversified portfolio of fixed income instruments of varying maturities. The Portfolio invests primarily in investment grade debt obligations, U.S. government securities and commercial paper and other short-term obligations. Up to 20% of the Portfolio's net assets may be invested in securities denominated in foreign currencies and the Portfolio may invest beyond that limit in U.S. dollar-denominated securities of foreign issuers.
Oppenheimer Strategic Bond Fund/VA—seeks a high level of current income principally derived from interest on debt securities. The Fund invests in debt securities of issuers in three market sectors: foreign governments and companies (including emerging market issuers); U.S. government securities; and lower-grade, high yield securities of U.S. and foreign companies. The Fund may invest in securities of any maturity and may invest without limit in junk bonds.	
Templeton Global Income Securities Fund—seeks high current income, consistent with the preservation of capital. Capital appreciation is a secondary objective. Normally, the Fund invests at least 65% of its total assets in debt securities of governments and their subdivisions and agencies, supranational organizations and companies located anywhere in the world. The Fund focuses on investment grade debt securities, but may invest up to 30% of its net assets in junk bonds (including emerging market issuers and up to 10% of its assets in debt securities that are in default). The average maturity of the Fund's debt securities ranges from approximately 5 to 15 years.	
Oppenheimer Money Fund/VA—seeks maximum current income from investments in money market securities consistent with low capital risks and the maintenance of liquidity. Investment include U.S. government securities, foreign and domestic bank obligations, commercial paper of foreign and domestic companies and short-term corporate obligations.	State Street Research Money Market Portfolio—seeks a high level of current income, consistent with preservation of capital. The Portfolio invests in the highest quality money market obligations including commercial paper and asset-backed securities. The Portfolio may also invest in U.S. dollar-denominated securities issued by foreign companies or banks or their U.S. affiliates.
MFS Strategic Income Series—seeks high current income by investment in fixed income securities. Significant capital appreciation is the secondary objective. At least 65% of its assets are invested in U.S. government securities, foreign government securities, mortgage- and asset-backed securities, corporate bonds (including up to 100% of its assets in junk bonds) and emerging market securities.	Salomon Brothers Strategic Bond Opportunities Portfolio—seeks a high level of total return consistent with preservation of capital. Under normal circumstances, at least 80% of the Portfolio's assets are invested in U.S. investment grade securities (including U.S. government obligations), U.S. and foreign (including emerging markets) high yield debt, and foreign government securities. Up to 100% of the Portfolio's assets may be invested in high yield debt securities.
Oppenheimer Bond Fund/VA—mainly seeks a high level of current income. As a secondary objective, the Fund seeks capital appreciation consistent with its primary objective. Normally, at least 80% of the Fund's total assets are invested on investment grade debt securities, U.S. governmental securities and money market investments. The Fund may invest in debt securities of any maturity and may invest up to 35% of the total assets in junk bonds.	State Street Research Bond Income Portfolio—seeks a competitive total return primarily from investing in fixed income securities. Under normal circumstances, the Portfolio invests at least 80% of its assets in fixed income securities including investment grade fixed income securities, obligations of the U.S. Treasury or any governmental agency, mortgage-backed and asset-backed securities, corporate debt securities of U.S. and foreign issuers, and cash equivalents. Up to 20% of the Portfolio's assets may be invested in high yield securities, up to 20% in foreign securities and up to 10% in the securities of emerging market issuers. No combination of investments in high yield securities, foreign securities or emerging market securities will exceed 30% of the Portfolio's assets.

46. The following tables compare the total operating expenses of the Existing Fund and the Replacement Fund for each proposed substitution. The comparative fund expenses are generally based on actual expenses, including waivers, for the year ended December 31, 2002. In some cases, the expense caps for certain Replacement Funds were increased effective May 1, 2003. In such cases, the expenses of those Funds have been restated to reflect the expense cap in effect as of May 1, 2003. Where a Fund has multiple classes of shares involved in the proposed substitution, the expenses of each class are presented.

	AIM V.I. balanced fund (percent)	MFS total return portfolio (percent)
Management Fee	0.75	0.50
12b–1 Fee		
Other Expenses	0.42	0.16
Total Expenses	1.17	0.66
Waivers		
Net Expenses	1.17	0.66

	AIM V.I. premier equity fund (percent)		Lord Abbett growth and income portfolio (percent)	
	Class I	Class II	Class A	Class B
Management Fee	0.61	0.61	0.58	0.58
12b–1 Fee	.....	0.25	.....	0.25
Other Expenses	0.24	0.24	0.09	0.10
Total Expenses	0.85	1.10	0.67	0.93
Waivers	.....	.....	.....	.....
Net Expenses	0.85	1.10	0.67	0.93

	Alger American small capitalization portfolio (percent)	T. Rowe Price small cap growth portfolio (percent)
Management Fee	0.85	0.52
12b–1 Fee	.....	.....
Other Expenses	0.12	0.09
Total Expenses	0.97	0.61
Waivers	.....	.....
Net Expenses	0.97	0.61

	AllianceBernstein premier growth portfolio (percent)		Janus aggressive growth portfolio (percent)	
	Class A	Class B	Class A	Class B
Management Fee	1.00	1.00	0.80	0.80
12b–1 Fee	.....	0.25	.....	0.25
Other Expenses	0.05	0.06	0.63	0.64
Total Expenses	1.05	1.31	1.43	1.69
Waivers	.....	.....	0.53	0.54
Net Expenses	1.05	1.31	0.90	1.15

	AllianceBernstein value portfolio (percent)	Lord Abbett growth and income portfolio (percent)
Management Fee	0.75	0.58
12b–1 Fee	0.25	0.25
Other Expenses	0.43	0.10
Total Expenses	1.43	0.93
Waivers	0.22	.....
Net Expenses	1.21	0.93

	AllianceBernstein small cap value portfolio (percent)	Third Avenue small cap value portfolio (percent)
Management Fee	1.00	0.75
12b–1 Fee	0.25	0.25
OtherExpenses	0.45	0.69
Total Expenses	1.70	1.69
Waivers	0.37	0.44
Net Expenses	1.43	1.25

	VP income and growth fund (percent)	Lord Abbett growth and income portfolio (percent)
Management Fee	0.70	0.58
12b–1 Fee	.....	.....
Other Expenses	.....	0.09
Total Expenses	0.70	0.67
Waivers	.....	.....
Net Expenses	0.70	0.67

	VP international fund (percent)	MFS research international portfolio (percent)
Management Fee	1.30	0.80
12b–1 Fee	.....	.....
Other Expenses	0.01	1.06
Total Expenses	1.31	1.86
Waivers	.....	0.76
Net Expenses	1.31	1.10

	VP value fund (percent)	Lord Abbett mid-cap value portfolio (percent)
Management Fee	0.95	0.70
12b–1 Fee	.....	.....
Other Expenses	.....	0.20
Total Expenses	0.95	0.90
Waivers	.....	.....
Net Expenses	0.95	0.90

	Appreciation portfolio (percent)		Oppenheimer capital appreciation portfolio (percent)	
	Service class	Initial class	Class B	Class A
Management Fee	0.75	0.75	0.65	0.65
12b–1 Fee	0.25	.....	0.25	.....
Other Expenses	0.13	0.03	0.32	0.34
Total Expenses	1.13	0.78	1.22	0.99
Waivers	0.03	.....	0.22	0.24
Net Expenses	1.10	0.78	1.00	0.75

	Disciplined stock portfolio (percent)		Oppenheimer capital appreciation portfolio (percent)	
	Service class	Initial class	Class B	Class A
Management Fee	0.75	0.75	0.65	0.65
12b–1 fee	0.25	.....	0.25	.....
Other Expenses	0.06	0.08	0.32	0.34
Total Expenses	1.06	0.83	1.22	0.99
Waivers	0.06	.....	0.22	0.24
Net Expenses	1.00	0.83	1.00	0.75

	Federated American leaders fund II (percent)	Lord Abbett growth and income portfolio (percent)
Management Fee	0.75	0.58
12b–1 Fee	.....	.....
Other Expenses	0.38	0.09
Total Expenses	1.13	0.67
Waivers	0.25	.....
Net Expenses	0.88	0.67

	Federated equity fund II (percent)	Lord Abbett growth and income portfolio (percent)
Management Fee	0.75	0.58
12b–1 Fee	.....	.....
Other Expenses	0.58	0.09
Total Expenses	1.33	0.67
Waivers	0.26	.....
Net Expenses	1.07	0.67

	Federated high income bond fund II (percent)	Lord Abbett bond debenture portfolio (percent)
Management Fee	0.60	0.60
12b–1 Fee	.....	.....
Other Expenses	0.42	0.17
Total Expenses	1.02	0.77
Waivers	0.25	0.02
Net Expenses	0.77	0.75

	Federated growth strategy fund II (percent)	Oppenheimer capital appreciation portfolio (percent)
Management Fee	0.75	0.65
12b–1 Fee	.....	.....
Other Expenses	0.58	0.34
Total Expenses	1.33	0.99
Waivers	0.26	0.24
Net Expenses	1.07	0.75

	VIP asset manager portfolio (percent)	MFS total return portfolio (percent)
Management Fee	0.53	0.50
12b–1 Fee	.....	.....
Other Expenses	0.10	0.06
Total Expenses	0.63	0.56
Waivers	.....	.....
Net Expenses	0.63	0.56

	Franklin large cap growth securities fund (percent)		T. Rowe Price large cap growth portfolio (percent)	
	Class 2	Class 1	Class B	Class A
Management Fee	0.75	0.75	0.63	0.63
12b–1 Fee	0.25	.....	0.25	.....
Other Expenses	0.05	0.05	0.14	0.14
Total Expenses	1.05	0.80	1.02	0.77
Waivers	.....	.....	.....	.....
Net Expenses	1.05	0.80	1.02	0.77

	Franklin small cap fund (percent)		T. Rowe Price small cap growth portfolio (percent)	
	Class 1	Class 2	Class A	Class B
Management Fee	0.53	0.53	0.52	0.52
12b–1 Fee	.....	0.25	.....	0.25
Other Expenses	0.31	0.31	0.09	0.09
Total Expenses	0.84	1.09	0.61	0.86
Waivers	0.05	0.05	.....	.....
Net Expenses	0.79	1.04	0.61	0.86

	Goldman Sachs growth and income fund (percent)	Lord Abbett growth & income (percent)
Management Fee	0.75	0.58
12b–1 Fee	.....	.....
Other Expenses	0.46	0.09
Total Expenses	1.21	0.67
Waivers	0.17	.....
Net Expenses	1.04	0.67

	Goldman Sachs international equity fund (percent)	MFS research international portfolio (percent)
Management Fee	1.00	0.80
12b–1 Fee	.....	.....
Other Expenses	1.77	1.06
Total Expenses	2.77	1.86
Waivers	1.38	0.76
Net Expenses	1.39	1.10

	Invesco VIF-dynamics fund (percent)	T. Rowe Price mid-cap growth portfolio (percent)
Management Fee	0.75	0.75
12b–1 Fee	.....	.....
Other Expenses	0.37	0.45
Total Expenses	1.12	1.20
Waivers	.....	0.25
Net Expenses	1.12	0.95

	Invesco VIF high yield fund (percent)	Lord Abbett bond debenture portfolio (percent)
Management Fee	0.60	0.60
12b–1 Fee	.....	.....
Other Expenses	0.45	0.17
Total Expenses	1.05	0.77
Waivers	.....	0.02
Net Expenses	1.05	0.75

	Mutual shares securities fund (percent)		Lord Abbett growth and income portfolio (percent)	
	Class 1	Class 2	Class A	Class B
Management Fee	0.60	0.60	0.58	0.58
12b–1 Fee	.....	0.25	.....	0.25
Other Expenses	0.21	0.21	0.09	0.10
Total Expenses	0.81	1.06	0.67	0.93
Waivers	0.01	0.01	.....	.....
Net Expenses	0.80	1.05	0.67	0.93

	MFS bond series (percent)	PIMCO total return portfolio (percent)
Management Fee	0.60	0.50
12b–1 Fee	.....	.....
Other Expenses	0.32	0.15
Total Expenses	0.92	0.65
Waivers	0.17	.....
Net Expenses	0.75	0.65

	MFS emerging growth series (percent)		T. Rowe Price large cap growth portfolio (percent)	
	Initial class	Service class	Class A	Class B
Management Fee	0.75	0.75	0.63	0.63
12b–1 Fee	.....	0.25	.....	0.25
Other Expenses	0.11	0.11	0.14	0.14
Total Expenses	0.86	1.11	0.77	1.02
Waivers	.....	.....	.....	.....
Net Expenses	0.86	1.11	0.77	1.02

	MFS research series (percent)		Oppenheimer capital appreciation portfolio (percent)	
	Initial class	Service class	Class A	Class B
Management Fee	0.75	0.75	0.65	0.65
12b–1 Fee	.....	0.25	.....	0.25
Other Expenses	0.12	0.12	0.34	0.32
Total Expenses	0.87	1.12	0.99	1.22
Waivers	.....	.....	0.24	0.22
Net Expenses	0.87	1.12	0.75	1.00

	MFS strategic income series (percent)		Salomon brothers strategic bond opportunities portfolio (percent)	
	Initial class	Service class	Class A	Class B
Management Fee	0.75	0.75	0.65	0.65
12b–1 Fee	.....	0.25	.....	0.25
Other Expenses	0.35	0.35	0.20	0.20
Total Expenses	1.10	1.35	0.85	1.10
Waivers	0.20	0.20	.....	.....
Net Expenses	0.90	1.15	0.85	1.10

	Newport Tiger fund (percent)	MFS research international portfolio (percent)
Management Fee	0.90	0.80
12b–1 Fee	.....	.....
Other Expenses	0.37	1.06
Total Expenses	1.27	1.86
Waivers	.....	0.76
Net Expenses	1.27	1.10

	Oppenheimer strategic bond fund/VA (percent)	PIMCO total return portfolio (percent)
Management Fee	0.74	0.50
12b–1 Fee	.....	.....
Other Expenses	0.05	0.15
Total Expenses	0.79	0.65
Waivers	0.01	.....
Net Expenses	0.78	0.65

	Oppenheimer Main Street fund/VA (percent)	Lord Abbett growth and income portfolio (percent)
Management Fee	0.68	0.58
12b–1 Fee	.....	.....
Other Expenses	0.01	0.09
Total Expenses	0.69	0.67
Waivers	.....	.....
Net Expenses	0.69	0.67

	Oppenheimer high income fund/VA (percent)	Lord Abbett bond debenture portfolio (percent)
Management Fee	0.74	0.60
12b–1 Fee	.....	.....
Other Expenses	0.03	0.17
Total Expenses	0.77	0.77
Waivers	.....	0.02
Net Expenses	0.77	0.75

	Oppenheimer bond fund/VA (percent)	State Street research bond income portfolio (percent)
Management Fee	0.71	0.40
12b–1 Fee	.....	.....
Other Expenses	0.02	0.11
Total Expenses	0.73	0.51
Waivers	.....	.....
Net Expenses	0.73	0.51

	Oppenheimer money fund/VA (percent)	State Street research money market portfolio (percent)
Management Fee	0.45	0.35
12b–1 fee	.....	.....
Other Expenses	0.02	0.08
Total Expenses	0.47	0.43
Waivers	.....	.....
Net Expenses	0.47	0.43

	Oppenheimer Main Street small cap growth fund/VA (percent)	T. Rowe Price small cap growth portfolio (percent)
Management Fee	0.75	0.52
12b–1 Fee	.....	.....
Other Expenses	0.25	0.09
Total Expenses	1.00	0.61
Waivers	.....	.....
Net Expenses	1.00	0.61

	Putnam VT new value fund (percent)		Lord Abbett growth and income portfolio (percent)	
	Class 1B	Class 1A	Class B	Class A
Management Fee	0.69	0.69	0.58	0.58
12b–1 Fee	0.25	.....	0.25	.....
Other Expenses	0.09	0.09	0.10	0.09
Total Expenses	1.03	0.78	0.93	0.67
Waivers	.....	.....	.....	.....
Net Expenses	1.03	0.78	0.93	0.67

	Putnam VT international new opportunities fund (percent)		MFS Research fund international portfolio (percent)	
	Class 1B	Class 1A	Class B	Class A
Management Fee	1.00	1.00	0.80	0.80
12b–1 Fee	0.25	.....	0.25	.....
Other Expenses	0.27	0.27	1.02	1.06
Total Expenses	1.52	1.27	2.07	1.86
Waivers	.....	.....	0.72	0.76
Net Expenses	1.52	1.27	1.35	1.10

	International portfolio (percent)		MFS research international portfolio (percent)	
	Class B	Class A	Class B	Class A
Management Fee	0.87	0.87	0.80	0.80
12b–1 Fee	0.25	.....	0.25	.....
Other Expenses	0.31	0.16	1.02	1.06
Total Expenses	1.43	1.03	2.07	1.86
Waivers	.....	.....	0.72	0.76
Net Expenses	1.43	1.03	1.35	1.10

	SVS Dreman high return equity portfolio (percent)	Lord Abbett growth and income portfolio (percent)
Management Fee	0.73	0.58
12b–1 Fee	.....	.....
Other Expenses	0.06	0.09
Total Expenses 0.79	0.67	0.67
Waivers	.....	.....
Net Expenses	0.79	0.67

	Templeton global income securities fund (percent)		PIMCO total return portfolio (percent)	
	Class 1	Class 2	Class A	Class B
Management Fee	0.63	0.63	0.50	0.50
12b–1 Fee	.....	0.25	.....	0.25
Other Expenses	0.10	0.10	0.15	0.15
Total Expenses	0.73	0.98	0.65	0.90
Waivers	.....	.....	.....	.....
Net Expenses	0.73	0.98	0.65	0.90

	Growth and income portfolio (percent)	Lord Abbett growth and income portfolio (percent)
Management Fee	0.60	0.58
12b–1 Fee	.....	.....
Other Expenses	0.11	0.09
Total Expenses	0.71	0.67
Waivers	.....	.....
Net Expenses	0.71	0.67

47. The share classes of the Existing Funds and the Replacement Funds are identical with respect to the imposition of Rule 12b–1 fees currently imposed. While each Replacement Fund's Class B Rule 12b–1 fees can be raised to 0.50% of net assets by the Fund's Board of Trustees/Directors, the Rule 12b–1 fees of 0.25% of the Existing Funds' shares cannot be raised by the Fund's Board of Trustees, without shareholder approval, except as follows:

AllianceBernstein Premier Growth Portfolio—Can Be Raised by Board Up to 0.50%

AllianceBernstein Value Portfolio—Can Be Raised by Board Up to 0.50%

AllianceBernstein Small Cap Value Portfolio—Can Be Raised by Board Up to 0.50%

Franklin Large Cap Growth Securities Fund—Can Be Raised by Board Up to 0.35%

Franklin Small Cap Fund—Can Be Raised by Board Up to 0.35%

Mutual Shares Securities Fund—Can Be Raised by Board Up to 0.35%

Putnam VT New Value Fund—Can Be Raised by Board Up to 0.35%

Putnam VT International New Opportunities Fund—Can Be Raised by Board Up to 0.35%

Met Series Fund and MIST represent that, except as set forth in the following sentence, Rule 12b–1 fees for the Replacement Funds' Class B shares issued in connection with the proposed substitutions will not be raised above 0.25% of net assets without the approval of a majority in interest of those Contract owners whose shares were involved in the proposed substitutions. The foregoing representation shall apply to the following substitutions only if the Rule 12b–1 fees for the Replacement Funds' Class B shares exceed 0.35% or 0.50% of net assets as indicated: AllianceBernstein Premier Growth Portfolio/Janus Aggressive Growth Portfolio—0.50%; AllianceBernstein Value Portfolio/Lord Abbett Growth and Income Portfolio—0.50%; AllianceBernstein Small Cap Value Portfolio/Third Avenue Small Cap Value Portfolio—0.50%; Franklin Large Cap Growth Securities Fund/T. Rowe Price Large Cap Portfolio—0.35%; Franklin Small Cap Fund/T. Rowe Price Small Cap Growth Portfolio—0.35%; Mutual Shares Securities Fund/Lord Abbett Growth and Income Portfolio—0.35%; Putnam VT New Value Fund/Lord Abbett Growth and Income Portfolio—0.35%; Putnam VT International New Opportunities Fund/MFS Research International Portfolio—0.35%.

48. Further, in addition to any Rule 12b–1 fees, the investment advisers or distributors of the Existing Funds pay the Insurance Companies or one of the affiliates from 5 to 30 basis points for Class A shares (or their equivalent) sold to the Separate Accounts and, for Class B shares (or their equivalent), Rule 12b–1 fees of 25 basis points plus additional amounts ranging from 5 to 25 basis points. Following the substitutions, these payments will not be made on behalf of the Existing Funds. Rather, only 25 basis points in Rule 12b–1 fees (with respect to Class B shares) and profit distributions to members, if any, from the Replacement Funds' advisers will be available to the Insurance Companies or the Replacement Funds' distributors.

49. The Insurance Companies considered the performance history of each Fund and determined that no Contract owners would be materially adversely affected as a result of the substitutions. More detailed information regarding the Funds' comparative performance histories can be found in the Application.

50. The process for accomplishing the transfer of assets from each Existing Fund to its corresponding Replacement Fund will be determined on a case-by-case basis. In most cases, it is expected that the substitutions will be effected by redeeming shares of an Existing Fund for cash and using the cash to purchase shares of the Replacement Fund.

51. In certain other cases, it is expected that the substitutions will be effected by redeeming the shares of an Existing Fund in-kind; those assets will then be contributed in-kind to the corresponding Replacement Fund to purchase shares of that Fund. All in-kind redemptions from an Existing Fund of which any of the Substitution Applicants is an affiliated person will be effected in accordance with the conditions set forth in the Commission's no-action letter issued to *Signature Financial Group, Inc.* (available December 28, 1999).

52. The proposed substitutions will take place at relative net asset value with no change in the amount of any Contract owner's Contract value, cash value, or death benefit or in the dollar value of his or her investment in the Separate Accounts. Contract owners will not incur any fees or charges as a result of the proposed substitutions, nor will their rights or an Insurance Company's obligations under the Contracts be altered in any way. All expenses incurred in connection with the proposed substitutions, including brokerage, legal, accounting, and other fees and expenses, will be paid by the Insurance Companies. In addition, the proposed substitutions will not impose any tax liability on Contract owners. The proposed substitutions will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitutions than before the proposed substitutions. No fees will be charged on the transfers made at the time of the proposed substitutions because the proposed substitutions will not be treated as a transfer for the purpose of assessing transfer charges or for determining the number of remaining permissible transfers in a Contract year.

53. The Substitution Applicants agree that, to the extent that the annualized expenses of each Replacement Fund exceed, for each fiscal period (such period being less than 90 days) during the twenty-four months following the substitutions, the 2002 net expense level of the corresponding Existing Fund, the Insurance Companies will, for each Contract outstanding on the date of the proposed substitutions, make a corresponding reduction in separate account (or sub-account) expenses on the last day of such fiscal period, such that the amount of the Replacement Fund's net expenses, together with those of the corresponding separate account (or sub-account) will, on an annualized basis, be no greater than the sum of the net expenses of the Existing Fund and the expenses of the separate account (or sub-account) for the 2002 fiscal year of the Insurance Companies, as applicable.

54. The Substitution Applicants further agree that the Insurance Companies will not increase total separate account charges (net of any reimbursements or waivers) for any existing owner of the Contracts involved in the proposed substitution on the date of the substitutions for a period of two years from the date of the substitutions.

55. By a supplement to the prospectuses for the Contracts and the Separate Accounts, each Insurance Company will notify all owners of the Contracts of its intention to take the necessary actions, including seeking the order requested by this application and to substitute shares of the funds as described herein. The supplement will advise Contract owners that from the date of the supplement until the date of the proposed substitution, owners are permitted to make one transfer of Contract value (or annuity unit exchange) out of the Existing Fund sub-account, to another sub-account without the transfer (or exchange) being treated as one of a limited number of permitted transfers (or exchanges) or a limited number of transfers (or exchanges) permitted without a transfer charge. The supplement also will inform Contract owners that the Insurance Company will not exercise any rights reserved under any Contract to impose additional restrictions on transfers until at least 30 days after the proposed substitutions, except that the Insurance Company may impose restrictions on transfers to prevent or limit ''market timing'' activities by Contract owners or agents of Contract owners. The supplement will further advise Contract owners that for at least 30 days following the proposed substitutions, the Insurance Companies will permit Contract owners affected by the substitutions to make one transfer of Contract value (or annuity unit exchange) out of the Replacement Fund sub-account to another sub-account without the transfer (or exchange) being treated as one of a limited number of permitted transfers (or exchanges) or a limited number of transfers (or exchanges) permitted without a transfer charge.

56. In addition, in accordance with the Contract provisions and/or prospectus disclosure for Contracts issued by MetLife Investors USA, MetLife Investors USA will seek approval of the substitutions proposed for Separate Account A from MetLife Investors USA contract owners. Such approval will be sought from the owners of each class of MetLife Investors USA Contracts voting as a separate group, and the substitutions will be carried out for each class of Contracts whose owners approve them. A class of Contracts refers to a Contract type distinguishable from other types by the product (marketing) designation and, in most cases, by its contract form as approved for sale in each jurisdiction. Contracts of the same class have the same features and charge structure.

57. Approval is obtained by the affirmative vote of a majority of the class's outstanding interests in the Existing Fund sub-account of Separate Account A (measured by the dollar value of accumulation units or annuity unit reserves). MetLife Investors USA will solicit approval of MetLife Investors USA contract owners by sending them written voting forms accompanied by a voting information statement and other disclosure documents in a manner consistent with applicable requirements of Regulation 14A under the Securities Exchange Act of 1934. In particular, the relevant information will disclose, in substance, the information required by applicable items of Form N–14. Any beneficial financial interest that MetLife Investors USA may have in Separate Account A is immaterial in relation to the interests of contract owners, and MetLife Investors USA will not cast any votes.

58. Finally, within five business days after the proposed substitutions, Contract owners will be sent a written notice informing them that the substitutions were carried out and that they may make one transfer of all Contract value or cash value under a Contract invested in any one of the sub-accounts on the date of the notice to another sub-account available under their Contract at no cost and without regard to any limits on the frequency of transfers. The notice will also reiterate that the Insurance Company will not exercise any rights reserved by it under the Contracts to impose additional restrictions on transfers or to impose any charges on transfers (other than with respect to ''market timing'' activities) until at least 30 days after the proposed substitutions. The Insurance Companies will also send each Contract owner current prospectuses for the Replacement Funds involved.

Applicants' Legal Analysis

1. Section 26(c) of the Act requires the depositor of a registered unit investment trust holding the securities of a single issuer to obtain Commission approval before substituting the securities held by the trust. Specifically, Section 26(c) states:

> It shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the commission shall have approved such substitution. The Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provision of this title.

2. The Substitution Applicants state that the proposed substitutions appear to involve substitutions of securities within the meaning of Section 26(c) of the Act. The Substitution Applicants, therefore, request an order from the Commission pursuant to Section 26(c) approving the proposed substitutions.

3. Some of the Contracts expressly reserve to the applicable Insurance Company the right, subject to compliance with applicable law, to substitute shares of another investment company for shares of an investment company held by a sub-account of the Separate Accounts. The prospectuses for these Contracts and the Separate Accounts contain appropriate disclosure of this right. Certain Contracts issued by MetLife Investors USA provide, however, that approval of a majority of Contract owners who have allocated premiums to a particular Separate Account must be obtained prior to any substitution.

4. Applicants request an order of the Commission pursuant to Section 26(c) of the Act approving the proposed substitutions by the Insurance Companies. The Applicants assert that the proposed substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

5. The Substitution Applicants represent that the proposed Replacement Fund for each Existing Fund has an investment objective that is at least substantially similar to that of the Existing Fund. Moreover, the principal investment policies of the Replacement Funds are similar to those of the corresponding Existing Funds. The Insurance Companies believe that the new sub-adviser will, over the long-term, be positioned to provide at least comparable performance to that of the Existing Fund's sub-adviser.

6. In addition, a substantial number of the Existing Funds are currently either not available as investment options under any Contract previously or currently offered by the Insurance Companies or, if available, are available only for additional contributions and/or transfers from other investment options under Contracts not currently offered. The Substitution Applicants submit that, with respect to those Existing Funds with limited or no current availability, there is little likelihood additional significant assets, if any, will be allocated to such Funds, and, therefore, because of the costs of maintaining such Funds as investment options under the Contracts, it is in the interest of shareholders to substitute the applicable Replacement Funds which are currently being offered as investment options by the Insurance Companies.

7. The Substitution Applicants anticipate that Contract owners will be better off with the array of sub-accounts offered after the proposed substitutions than they have been with the array of sub-accounts offered prior to the substitutions. The proposed substitutions retain for Contract owners the investment flexibility that is a central feature of the Contracts. If the proposed substitutions are carried out, all Contract owners will be permitted to allocate purchase payments and transfer Contract values and cash values between and among approximately the same number of sub-accounts as they could before the proposed substitutions. Moreover, the elimination of the costs of printing and mailing prospectuses and periodic reports of the Existing Funds will benefit Contract owners.

8. The Substitution Applicants assert that none of the proposed substitutions is of the type that Section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the Contracts provide each Contract owner with the right to exercise his or her own judgment and transfer Contract or cash values into other sub-accounts. Moreover, the Contracts will offer Contract owners the opportunity to transfer amounts out of the affected sub-accounts into any of the remaining sub-accounts without cost or other disadvantage. The proposed substitutions, therefore, will not result in the type of costly forced redemption that Section 26(c) was designed to prevent.

9. The Substitution Applicants assert that the proposed substitutions also are unlike the type of substitution that Section 26(c) was designed to prevent in that by purchasing a Contract, Contract owners select much more than a particular investment company in which to invest their account values. They also select the specific type of insurance coverage offered by an Insurance Company under their Contract as well as numerous other rights and privileges set forth in the Contract. Contract owners may also have considered each Insurance Company's size, financial condition, relationship with MetLife, and its reputation for service in selecting their Contract. These factors will not change as a result of the proposed substitutions.

10. Section 17(a)(1) of the Act, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from knowingly selling any security or other property to that company. Section 17(a)(2) of the Act generally prohibits the persons described above, acting as principals, from knowingly purchasing any security or other property from the registered company.

11. Section 2(a)(3) of the Act defines the term ''affiliated person of another person'' in relevant part as:

> (A) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such person; (B) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such person; (C) any person directly or indirectly controlling, controlled by, or under common control with, such other person; * * * (E) if such other person is an investment company, any investment adviser thereof * * *

Section 2(a)(9) of the Act states that any person who owns beneficially, either directly or through one or more controlled companies, more than 25% of the voting securities of a company shall be presumed to control such company.

12. Because shares held by a separate account of an insurance company are legally owned by the insurance company, the Insurance Companies and their affiliates collectively own of record substantially all of the shares of MIST and Met Series Fund. Therefore, MIST and Met Series Fund and their respective funds are arguably under the control of the Insurance Companies notwithstanding the fact that Contract owners may be considered the beneficial owners of those shares held in the Separate Accounts. If MIST and Met Series Fund and their respective funds are under the control of the Insurance Companies, then each

Insurance Company is an affiliated person or an affiliated person of an affiliated person of MIST and Met Series Fund and their respective funds. If MIST and Met Series Fund and their respective funds are under the control of the Insurance Companies, then MIST and Met Series Fund and their respective funds are affiliated persons of the Insurance Companies.

13. Regardless of whether or not the Insurance Companies can be considered to control MIST and Met Series Fund and their respective funds, because the Insurance Companies own of record more than 5% of the shares of each of them and are under common control with each Replacement Fund's investment adviser, the Insurance Companies are affiliated persons of both MIST and Met Series Fund and their respective funds. Likewise, their respective funds are each an affiliated person of the Insurance Companies. In addition, the Insurance Companies, through their separate accounts own more than 5% of the outstanding shares of certain Existing Funds.

14. Because the substitutions may be effected, in whole or in part, by means of in-kind redemptions and purchases, the substitutions may be deemed to involve one or more purchases or sales of securities or property between affiliated persons. The proposed transactions may involve a transfer of portfolio securities by the Existing Funds to the Insurance Companies; immediately thereafter, the Insurance Companies would purchase shares of the Replacement Funds with the portfolio securities received from the Existing Funds. Accordingly, as the Insurance Companies and the Replacement Funds could be viewed as affiliated persons of one another under Section 2(a)(3) of the Act, it is conceivable that this aspect of the substitutions could be viewed as being prohibited by Section 17(a). Accordingly, the Section 17 Applicants have determined that it is prudent to seek relief from Section 17(a) in the context of this Application for the in-kind purchases and sales of the Replacement Fund shares.

15. Section 17(b) of the Act provides that the Commission may, upon application, grant an order exempting any transaction from the prohibitions of Section 17(a) if the evidence establishes that: (1) 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; (2) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and records filed under the Act; and (3) the proposed transaction is consistent with the general purposes of the Act.

16. The Section 17 Applicants submit that the terms of the proposed in-kind purchase transactions, including the consideration to be paid and received by each fund involved, are reasonable, fair and do not involve overreaching principally because the transactions will conform with all but two of the conditions enumerated in Rule 17a–7. The proposed transactions will take place at relative net asset value in conformity with the requirements of Section 22(c) of the Act and Rule 22c–1 thereunder with no change in the amount of any Contract owner's contract value or death benefit or in the dollar value of his or her investment in any of the Separate Accounts. Contract owners will not suffer any adverse tax consequences as a result of the substitutions. The fees and charges under the Contracts will not increase because of the substitutions. Even though the Separate Accounts, the Insurance Companies, MIST and Met Series Fund may not rely on Rule 17a–7, the Section 17 Applicants submit that the Rule's conditions outline the type of safeguards that result in transactions that are fair and reasonable to registered investment company participants and preclude overreaching in connection with an investment company by its affiliated persons.

17. The boards of MIST and Met Series Fund have adopted procedures, as required by paragraph (e)(1) of Rule 17a–7, pursuant to which the series of each may purchase and sell securities to and from their affiliates. The Section 17 Applicants will carry out the proposed Insurance Company in-kind purchases in conformity with all of the conditions of Rule 17a–7 and each series' procedures thereunder, except that: (1) The consideration paid for the securities being purchased or sold may not be entirely cash, and (2) the boards of MIST and Met Series Fund will not separately review each portfolio security purchased by the Replacement Funds. Nevertheless, the circumstances surrounding the proposed substitutions will be such as to offer the same degree of protection to each Replacement Fund from overreaching that Rule 17a–7 provides to them generally in connection with their purchase and sale of securities under that Rule in the ordinary course of their business. In particular, the Insurance Companies (or any of their affiliates) cannot effect the proposed transactions at a price that is disadvantageous to any of the Replacement Funds. Although the transactions may not be entirely for cash, each will be effected based upon (1) the independent market price of the portfolio securities valued as specified in paragraph (b) of Rule 17a–7, and (2) the net asset value per share of each fund involved valued in accordance with the procedures disclosed in its respective Investment Company's registration statement and as required by Rule 22c–1 under the Act. No brokerage commission, fee, or other remuneration will be paid to any party in connection with the proposed transactions.

18. The Section 17 Applicants submit that the sale of shares of the Replacement Funds for investment securities, as contemplated by the proposed Insurance Company in-kind purchases, is consistent with the investment policy and restrictions of the Investment Companies and the Replacement Funds because (1) the shares are sold at their net asset value, and (2) the portfolio securities are of the type and quality that the Replacement Funds would each have acquired with the proceeds from share sales had the shares been sold for cash. To assure that the second of these conditions is met, Met Investors Advisory LLC, MetLife Advisers, LLC and the sub-adviser, as applicable, will examine the portfolio securities being offered to each Replacement Fund and accept only those securities as consideration for shares that it would have acquired for each such fund in a cash transaction.

19. The Section 17 Applicants submit that the proposed Insurance Company in-kind purchases, as described herein, are consistent with the general purposes of the Act as stated in the Findings and Declaration of Policy in Section 1 of the Act. The proposed transactions do not present any of the conditions or abuses that the Act was designed to prevent. The Section 17 Applicants submit that the abuses described in Sections 1(b)(2) and (3) of the Act will not occur in connection with the proposed in-kind transactions.

Conclusion

Applicants assert that for the reasons summarized above the proposed substitutions and related transactions meet the standards of Section 26(c) of the Act and are consistent with the standards of Section 17(b) of the Act and that the requested orders should be granted.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 04–2328 Filed 2–4–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–26343]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

January 30, 2004.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of January, 2004. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549–0102 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 24, 2004, and should be accompanied by proof of service on the applicant, 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 Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549–0504.

CCM Advisors Fund [File No. 811–10241]

Summary: Applicant, a master fund in a master-feeder structure, seeks an order declaring that it has ceased to be an investment company. On June 30, 2003, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $25,975 incurred in connection with the liquidation were paid by applicant and CCM Advisors LLC, applicant's investment adviser.

Filing Date: The application was filed on December 31, 2003.

Applicant's Address: 190 South LaSalle St., Suite 2800, Chicago, IL 60603.

Anchor International Bond Trust [File No. 811–4644]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 19, 2003, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $8,786 incurred in connection with the liquidation were paid by applicant's investment adviser, F.L. Putnam Investment Management Co.

Filing Date: The application was filed on December 24, 2003.

Applicant's Address: 579 Pleasant St., Suite 4, Paxton, MA 01612.

The Willamette Funds [File No. 811–10275]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 19, 2003, applicant transferred its assets to The Integrity Funds, based on net asset value. Expenses of $109,000 incurred in connection with the reorganization were paid by applicant, the acquiring fund, and Integrity Money Management, Inc., investment adviser to the acquiring fund.

Filing Dates: The application was filed on November 19, 2003, and amended on December 30, 2003.

Applicant's Address: 220 NW 2nd Ave., Suite 950, Portland, OR 97209.

State Street Research Growth Trust [File No. 811–985]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 24, 2003, applicant transferred its assets to State Street Research Legacy Fund, a series of State Street Research Securities Trust, based on net asset value. Expenses of $45,816 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Dates: The application was filed on December 2, 2003, and amended on January 2, 2004.

Applicant's Address: One Financial Center, Boston, MA 02111.

State Street Research Tax-Exempt Trust [File No. 811–4558]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 7, 2003, applicant transferred its assets to Strong Advisor Municipal Bond Fund, a separate series of Strong Income Funds, Inc., based on net asset value. Expenses of $51,104 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Dates: The application was filed on December 2, 2003, and amended on January 2, 2004.

Applicant's Address: One Financial Center, Boston, MA 02111.

Credit Suisse Trust II [File No. 811–7999]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By October 21, 2001, all shareholders of applicant had redeemed their shares at net asset value. Expenses of $4,000 incurred in connection with the liquidation were paid by Credit Suisse Asset Management, LLC, applicant's investment adviser, or its affiliates.

Filing Dates: The application was filed on April 1, 2003, and amended on January 14, 2004.

Applicant's Address: 466 Lexington Ave., New York, NY 10017.

Van Kampen Florida Municipal Opportunity Trust [File No. 811–7726]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On May 18, 2001, applicant transferred its assets to Van Kampen Trust for Investment Grade Florida Municipals, based on net asset value. Holders of applicant's auction preferred shares exchanged those shares on a one-for-one basis for auction preferred shares of the acquiring fund. Expenses of $207,288 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Date: The application was filed on January 21, 2004.

Applicant's Address: 1 Parkview Plaza, Oakbrook Terrace, IL 60181–5555.

New York Life Investment Management Institutional Funds [File No. 811–10307]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 12, 2003, applicant made a final liquidating distribution to its shareholders, based on net asset value. Expenses of $7,924 incurred in connection with the liquidation were paid by New York Life Investment Management LLC, applicant's investment adviser.

Filing Date: The application was filed on January 23, 2004.

Applicant's Address: 169 Lackawanna Ave., Parsippany, NJ 07054.

The India Growth Fund Inc. [File No. 811–5571]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On May 30, 2003, applicant made a liquidating distribution to its shareholders, based on net asset value. As of January 21, 2004, applicant had 68 shareholders who have not returned their stock certificates. Unclaimed assets have been placed with applicant's transfer agent and will be held for the time period provided under the laws of each such shareholder's state of residence, after which time any unclaimed assets will escheat to the shareholder's state of residence. Expenses of $211,000 incurred in connection with the liquidation were paid by applicant.

Filing Dates: The application was filed on November 12, 2003 and amended on January 23, 2004.

Applicant's Address: c/o UBS Global Asset Management (US) Inc., 51 West 52nd St., New York, NY 10019.

Ayco Series Trust [File No. 811–10115]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Shareholders approved the merger of applicant's fund on November 25, 2003, and applicant distributed its assets on December 19, 2003. The fund surviving the merger is the Goldman Sachs Capital Growth Fund, a series of Goldman Sachs Variable Insurance Trust. The Ayco Company, L.P. and Goldman Sachs Asset Management, L.P. paid expenses of $131,590.90 incurred in connection with the merger.

Filing Date: The application was filed on January 12, 2004.

Applicant's Address: One Wall Street, Albany, NY 12203–3894.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–2455 Filed 2–4–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26344; 812–13059]

PMC Capital, Inc., et al.; Notice of Application

January 30, 2004

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 57(c) of the Investment Company Act of 1940 (the ''Act'') requesting an exemption from section 57(a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order permitting PMC Capital, Inc. (''PMC Capital''), a business development company (''BDC''), to merge into PMC Commercial Trust (''PMC Commercial'').

APPLICANTS: PMC Capital and PMC Commercial.

FILING DATES: The application was filed on January 7, 2004 and amended on January 29, 2004.

HEARING OR NOTIFICATION OF HEARING: An order granting the application 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 February 24, 2004, and should be accompanied by proof of service on the 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 5th Street, NW., Washington, DC 20549–0609. Applicants, 18111 Preston Road, Suite 600, Dallas, TX 75252.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942–0582, or Mary Kay Frech, Branch Chief, 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 5th Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. PMC Capital, a Florida corporation, is an internally managed closed-end diversified management investment company that has elected to be regulated as a BDC as defined in section 2(a)(48) of the Act. PMC Capital makes loans principally through three subsidiaries, each of which is licensed and regulated by the Small Business Administration (the ''SBA'') and registered under the Act as a closed-end diversified management investment company (collectively, the ''SBA Subsidiaries''). The SBA Subsidiaries are Western Financial Capital Corporation (''WFCC''), PMC Investment Corporation (''PMCIC''), and First Western SBLC, Inc. (''FW'').[1] WFCC and FW are wholly owned by PMC Capital. Because the SBA owns nonvoting preferred stock of PMCIC, PMCIC is not wholly owned by PMC Capital, although it is controlled by PMC Capital. PMC Capital, directly or through the SBA Subsidiaries, makes loans primarily to new and developing companies whose securities have no established public market. PMC Capital's common stock trades on the American Stock Exchange.

2. In addition to its lending operations, PMC Capital earns income through its wholly-owned subsidiary, PMC Advisers, Ltd. (''Advisers'') and PMC Asset Management, Inc., a wholly-owned subsidiary of Advisers. Advisers and PMC Asset Management, Inc. provide investment advisory and administrative services to PMC Commercial.[2]

3. PMC Commercial is a Texas real estate investment trust and primarily originates loans to small businesses collateralized by first liens on the real estate of the related business. In addition, its investments include the ownership of commercial properties in the hospitality industry. PMC Commercial's loans receivable are primarily to borrowers in the hospitality industry. It also originates loans for commercial real estate in the service, retail, multi-family and manufacturing industries. PMC Commercial's common shares trade on the American Stock Exchange.

4. Applicants have proposed a merger (the ''Merger'') and have entered into a merger agreement pursuant to which PMC Commercial has agreed to acquire PMC Capital. If the Merger is completed,

[1] WFCC is a Florida corporation that is licensed as a small business investment company (''SBIC'') under the Small Business Investment Act of 1958 (the ''SBIA'') and provides long-term loans to borrowers whether or not they qualify as ''disadvantaged.'' PMCIC is a Florida corporation that is licensed as a specialized small business investment company (''SSBIC'') under the SBIA. PMCIC provides long-term collateralized loans to eligible small businesses owned by ''disadvantaged'' persons, as defined under SBA regulations. FW is a Florida corporation that is licensed as a small business lending company (''SBLC'') and originates variable-rate loans that are partially guaranteed by the SBA under its section 7(a) loan guarantee program.

[2] PMC Capital is also directly or indirectly the sole shareholder or partner of the following non-investment company subsidiaries: PMC Funding Corp., PMC Capital, L.P. 1998–1, and PMC Capital, L.P. 1999–1. In addition, PMC Capital and PMC Commercial jointly own interests in several special purpose entities formed in connection with structured loan sale transactions.

PMC Capital shareholders will receive 0.37 PMC Commercial common shares of beneficial interest for each share of PMC Capital common stock they own and will hold approximately 40.49% of PMC Commercial's common shares after the Merger. PMC Commercial shareholders will continue as shareholders after the Merger, holding approximately 59.51% of the outstanding shares of PMC Commercial.

5. Upon completion of the Merger, PMC Capital will be merged with and into PMC Commercial, and the operations of PMC Commercial will include the continuation of the businesses of PMC Capital. Each of PMC Capital's wholly-owned subsidiaries will remain in existence following the Merger, and will be wholly-owned by PMC Commercial. Both Advisers and PMC Asset Management, Inc. will continue in existence after the Merger; however, it is currently intended that they will have no advisory contracts. It is anticipated that they will be taxable REIT subsidiaries that will lease foreclosed properties and generate the income of such properties, if any.

6. At a meeting of the PMC Commercial board of trust managers held on June 14, 2002, management of Advisers indicated that a merger between PMC Capital and PMC Commercial might be beneficial and should be evaluated by PMC Commercial. The PMC Commercial board of trust managers determined that it would be appropriate to consider such a transaction and established a special committee of trust managers (the ''PMC Commercial Special Committee'') with no relationship to PMC Capital to determine whether such a transaction would be in the best interests of PMC Commercial shareholders and to report back to the full board. On November 4, 2002, the PMC Commercial Special Committee submitted an indication of interest to the PMC Capital board of directors.

7. On November 8, 2002, having received and reviewed PMC Commercial's indication of interest, the PMC Capital board held a special meeting. At that meeting, the PMC Capital board appointed a special committee composed of the PMC Capital directors who are not ''interested persons'' as defined in section 2(a)(19) of the Act (the ''PMC Capital Special Committee''). The PMC Capital Special Committee was empowered to determine whether the proposed merger would be in the best interests of PMC Capital's shareholders and to make a recommendation to the PMC Capital board of directors. The PMC Capital Special Committee was also authorized to (a) retain legal and financial advisors of its own choosing, (b) review documents and otherwise perform due diligence with respect to PMC Commercial, and (c) prepare and negotiate the terms of the proposal and all documents necessary to effect the Merger.

8. On November 8, 2002, at its first meeting, the PMC Capital Special Committee engaged Sutherland Asbill & Brennan LLP (''Sutherland'') as its legal counsel. On December 6, 2002, the PMC Capital Special Committee engaged A.G. Edwards, an investment banking firm, as its financial advisor in connection with the proposed merger. A.G. Edwards had no previous relationship with PMC Capital or PMC Commercial or any of their respective affiliates. From December 9, 2002 to January 6, 2003, the PMC Capital Special Committee, Sutherland and A.G. Edwards conducted extensive due diligence investigations of PMC Capital and PMC Commercial. As part of that process, representatives of A.G. Edwards met with senior management of both PMC Capital and PMC Commercial.

9. On January 6, 2003, representatives of the PMC Capital Special Committee, Sutherland and A.G. Edwards met to discuss the results of the due diligence process and to discuss the terms of the indication of interest. At this meeting, A.G. Edwards presented to the PMC Capital Special Committee a comprehensive review of the terms of the proposal and several possible strategic alternatives thereto, including a REIT conversion and recapitalization, a partial asset liquidation and share repurchase, and an equity financing. The PMC Capital Special Committee determined at this meeting to pursue the indication of interest with an exchange ratio range of 0.34 to 0.41. Subsequently, the PMC Commercial Special Committee and PMC Capital Special Committee negotiated an exchange ratio of 0.37.

10. On March 27, 2003, the PMC Capital Special Committee met with its legal and financial advisors to discuss the exchange ratio. A.G. Edwards delivered its oral opinion to the PMC Capital Special Committee that, based on and subject to the various assumptions and qualifications to be set forth in its written opinion as of March 27, 2003, the exchange ratio of 0.37 was fair to PMC Capital shareholders from a financial point of view. The PMC Capital Special Committee then unanimously voted to recommend to the PMC Capital board of directors that (a) the Merger and the transactions contemplated thereby were fair to and in the best interest of PMC Capital shareholders from a financial and procedural point of view; and (b) the Merger, the merger agreement and the transactions contemplated thereby be approved and recommended to PMC Capital shareholders.

11. On March 27, 2003, the full PMC Capital board of directors met to consider the proposed merger, the merger agreement and the transactions contemplated thereby. Sutherland reviewed the terms of the merger agreement with the board and discussed the fiduciary duties to which the board members were subject. A.G. Edwards delivered its oral opinion that, based on and subject to the various assumptions and qualifications to be set forth in its written opinion as of March 27, 2003, the exchange ratio of 0.37 was fair, from a financial point of view, to PMC Capital shareholders. The Chairman of the PMC Capital Special Committee presented the unanimous recommendation of the PMC Capital Special Committee that (a) the Merger and the transactions contemplated thereby were fair to and in the best interest of PMC Capital shareholders from a financial and procedural point of view; and (b) the Merger, the merger agreement and the transactions contemplated thereby should be approved and recommended to PMC Capital shareholders.

12. Based on the information and factors considered by the PMC Capital Special Committee and the unanimous recommendation of the PMC Capital Special Committee, the PMC Capital board of directors (a) determined that the Merger and the transactions contemplated thereby were fair to and in the best interest of the PMC Capital shareholders from a financial and procedural point of view; and (b) approved the Merger, the merger agreement and the transactions contemplated thereby and recommended such matters to PMC Capital's shareholders.

13. The exchange ratio was based on (a) The financial terms and conditions of the merger agreement; (b) historical business and financial information relating to the two companies; (c) financial forecasts and other data relating to the two companies' business; (d) discussions with members of senior management with respect to the business and prospects of the two companies, including the benefits and costs related to the Merger; (e) the historical stock prices and trading volumes of the two companies' common stock; and (f) public information with respect to other companies believed to be generally comparable to the two companies.

14. In reaching its decision to approve the Merger, the terms of the merger agreement and the transactions contemplated thereby and to recommend that the PMC Capital board of directors approve and recommend such matters to PMC Capital's shareholders, the PMC Capital Special Committee consulted with PMC Capital management as well as its legal counsel and financial advisor and carefully considered the following material factors: (a) Its review and knowledge of the business, financial condition, results of operations and prospects of PMC Capital, and its general familiarity with and knowledge about PMC Capital's affairs; (b) the present and possible future economic and competitive environment of the small business lending industry in which PMC Capital operates; (c) the written opinion of A.G. Edwards as of March 27, 2003 that the exchange ratio of 0.37 of a common share of PMC Commercial for each share of PMC Capital common stock was fair, from a financial point of view, to PMC Capital's shareholders, and the analyses presented to the PMC Capital Special Committee by A.G. Edwards; (d) the need to increase the capital base of PMC Capital at a reduced cost to achieve operating efficiencies, which the Merger of PMC Capital with PMC Commercial could offer; (e) the need to diversify PMC Capital's investment assets in an effort to provide PMC Capital shareholders with greater earnings performance and operating and dividend stability; (f) its belief that any transaction with PMC Commercial should result in maximizing shareholder value; (g) after conducting a review of strategic alternatives, its belief that the proposed merger provided the best method of maximizing shareholder value; (h) the negotiations it and its financial and legal advisors conducted with the PMC Commercial Special Committee and its financial and legal advisors; (i) the nature of the parties' representations and warranties contained in the merger agreement; (j) the other terms and conditions in the merger agreement, including the right of PMC Capital to terminate the merger agreement prior to its approval by PMC Capital shareholders in the exercise of its fiduciary duty in connection with a superior proposal, subject to a termination fee; (k) that the combined company would have a larger equity market capitalization, which could generate greater research coverage and institutional investment as well as potentially increase the trading volume of the PMC Commercial common shares to be received by PMC Capital shareholders in the Merger as compared to the trading volume of PMC Capital's common stock before the Merger; (l) the historical market prices and trading information with respect to the PMC Capital common stock and PMC Commercial common shares; (m) the comparisons of historical financial measures for PMC Capital and PMC Commercial, including earnings, return on capital and cash flow, and comparisons of historical operational measures for PMC Commercial and PMC Capital; (n) the expectation that the Merger would be a tax-free transaction for U.S. Federal income tax purposes; (o) the proposed composition of the management of PMC Commercial following the Merger, which would facilitate the integration of both companies and assist the continuation of the best practices of PMC Capital and PMC Commercial following the completion of the Merger; (p) the expectation that unification of the businesses of PMC Capital and PMC Commercial would remove some of the confusion in the marketplace resulting from having two separate public companies with similar names and management; (q) the timing of receipt and the terms of approvals from appropriate governmental entities, including the possibility of delay in obtaining satisfactory approvals or the imposition of unfavorable terms or conditions in the approvals; (r) the desire to simplify PMC Capital's complex business and regulatory structure; (s) the likelihood that the transactions contemplated by the Merger would be successfully completed; and (t) the current industry, economic, market and other relevant conditions.

15. On August 22, 2003, PMC Commercial's registration statement on Form S–4 (the ''Registration Statement'')[3] was filed with the Commission. The Registration Statement includes a joint proxy statement/prospectus (the ''Joint Proxy Statement/Prospectus''), which was used to offer the securities to be issued by PMC Commercial and to solicit proxies in connection with the approval of the Merger by the stockholders of each of PMC Commercial and PMC Capital. The Registration Statement was declared effective on November 12, 2003, and the Joint Proxy Statement/Prospectus was first mailed to shareholders on or about November 12, 2003. On December 30, 2003, PMC Capital shareholders approved the Merger. On January 9, 2004, PMC Commercial shareholders approved the Merger.

[3] File No. 333–108180.

Applicants' Legal Analysis

1. Section 57(a)(2) generally makes it unlawful for any person related to a BDC in a manner described in section 57(b), acting as principal, knowingly to purchase from such BDC any security or other property. Section 57(b), in turn, provides that section 57(a) applies to, among other persons, any person directly or indirectly controlled by or under common control with a BDC.

2. The transfer of the assets of PMC Capital to PMC Commercial as a result of the Merger could be deemed to violate section 57(a)(2) to the extent that PMC Capital and PMC Commercial are deemed to be under common control by virtue of PMC Capital controlling Advisers, which, as PMC Commercial's investment adviser, could be deemed to control PMC Commercial.

3. Section 57(c) of the Act provides that the Commission will exempt a transaction from section 57(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 of the BDC or its shareholders on the part of any person concerned, and the proposed transaction is consistent with the policy of the BDC and consistent with the general purposes of the Act. Applicants believe that the requested relief meets these standards for the reasons discussed below.

4. Applicants believe that the Merger, whereby shares of PMC Capital will be converted into the right to receive shares of PMC Commercial, would benefit PMC Capital's stockholders in a number of ways. It would result in increased size, increased portfolio diversity, and a superior mix of current and capital gain income. The Merger would also eliminate the need for costly duplication of efforts related to maintaining and reporting for two separate public entities.

5. Applicants assert that the extensive involvement of the board of PMC Capital, including PMC Capital Special Committee, the fairness opinion rendered by the independent financial adviser for PMC Capital, and the fact that PMC Capital was represented by separate counsel in connection with the Merger ensures that no overreaching of PMC Capital or its shareholders will occur in connection with the Merger.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–2357 Filed 2–4–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49146; File No. 4–429]

Joint Industry Plan; Order Approving Joint Amendment No. 8 to the Options Intermarket Linkage Plan Relating to Satisfaction Orders and Trade-Throughs

January 29, 2004.

I. Introduction

On December 18, 2003, December 22, 2003, December 29, 2003, and December 30, 2003, the International Securities Exchange, Inc. (''ISE''), the Pacific Exchange, Inc. (''PCX''), the American Stock Exchange LLC (''Amex''), the Philadelphia Stock Exchange, Inc. (''Phlx''), and the Chicago Board Options Exchange, Inc. (''CBOE'') (collectively, the ''Participants''), respectively submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') in accordance with section 11A of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 11Aa3–2 thereunder,[2] a proposed amendment to the Options Intermarket Linkage Plan (the ''Plan'').[3] The amendment proposes to extend the pilot provision limiting trade-through liability to 10 contracts per satisfaction order at the end of the day for an additional five months, until June 30, 2004.

The proposed amendment to the Plan was published in the **Federal Register** on January 6, 2004.[4] No comments were received on the proposed amendment. This order approves the proposed amendment to the Plan.

II. Description of the Proposed Amendment

In Joint Amendment No. 8, the Participants propose to extend the pilot provision contained in section 8(c)(ii)(B)(2)(c) of the Plan that limits trade-through liability to 10 contracts per satisfaction order at the end of the day for an additional five months, until June 30, 2004, in order to gain more experience with the limitation on trade-through liability. Pursuant to the pilot, an exchange member's trade-through liability is limited to 10 contracts per Satisfaction Order for the period between five minutes prior to the close of trading in the underlying security and the close of trading in the options class.

III. Discussion

When this pilot was originally proposed in Joint Amendment No. 4 to the Plan,[5] the Participants represented to the Commission that their members had expressed concerns regarding their obligations to fill Satisfaction Orders (which arise after a trade-through[6]) at the close of trading in the underlying security. Specifically, the Participants represented that their members were concerned that they may not have sufficient time to hedge the positions they acquire.[7] The Participants stated that they believed that their proposal to limit liability for trade-throughs for the last five minutes of trading in the underlying security to the filling of 10 contracts per exchange, per transaction would protect small customer orders, but still establish a reasonable limit for their members' liability. The Participants further represented that the proposal should not affect a member's potential liability under an exchange disciplinary rule for engaging in a pattern or practice of trading through other markets under section 8(c)(i)(C) of the Plan.

The Commission approved the proposal for a one-year pilot[8] to give the Participants and the Commission an opportunity to evaluate: (1) The need for the limitation on liability for trade-throughs near the end of the trading day; (2) whether 10 contracts per Satisfaction Order is the appropriate limitation; and (3) whether the opportunity to limit liability for trade-throughs near the end of the trading day leads to an increase in trade-throughs. In its approval order, the Commission requested that the Participants provide a report to the Commission at least sixty days prior to seeking permanent approval of the pilot program. The Commission specified that the report should include information about the number and size of trade-throughs that occur during the last seven minutes of the trading day, the number and size of Satisfaction Orders that Participants might be required to fill without the limitation on liability and how those amounts are affected by the limitation on liability, and the extent to which the Participants use the underlying market to hedge their options positions.[9]

In connection with the request in Joint Amendment No. 8 to extend the pilot for an additional five months until June 30, 2004, the Commission notes that the Participants represent that if they seek to make the limitations on trade-throughs permanent, they will submit the above-referenced report to the Commission no later than March 31, 2004. The Participants further represent in Joint Amendment No. 8 that each exchange plans to submit individual reports regarding the requested data and that these reports will detail the number of trade-throughs in the last seven minutes of options trading and the rest of the day, as well as the number and size of Satisfaction Orders that would have been filled absent the current exemption. In addition, the Participants represent that the reports will provide information on the extent to which the exchange's members hedge their options trading during the day as part of their overall risk management. Finally, the Participants represent that they will make every effort to provide specific information regarding their members' hedging at the end of the trading day.

After careful consideration, the Commission finds that the proposed amendment to the Plan seeking to extend the current pilot is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the proposed amendment to the Plan is consistent with section 11A of the Act[10] and Rule 11Aa3–2 thereunder,[11] in that extending the pilot, while the Participants gather and evaluate data

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 240.11Aa3–2.

[3] On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage proposed by the Amex, CBOE, and ISE. *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, upon request by the Phlx and PCX, the Commission issued orders to permit these exchanges to participate in the Plan. *See* Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70850 (November 28, 2000) and 43574 (November 16, 2000), 65 FR 70851 (November 28, 2000).

[4] *See* Securities Exchange Act Release No. 49010 (December 30, 2003), 69 FR 706.

[5] *See* Securities Exchange Act Release No. 47028 (December 18, 2002), 67 FR 79171 (December 27, 2002) (Notice of Proposed Joint Amendment No. 4).

[6] Trade-throughs occur when a broker-dealer executes its customer's order on one exchange at a price inferior to another exchange's disseminated quote.

[7] *See* letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Annette Nazareth, Director, Division of Market Regulation, Commission, dated November 19, 2002.

[8] *See* Securities Exchange Act Release No. 47298 (January 31, 2003), 68 FR 6524 (February 7, 2003) (approval of pilot program on a 120-day basis); *see also* Securities Exchange Act Release No. 48055 (June 18, 2003), 68 FR 37869 (June 25, 2003) (approval of pilot program).

[9] *Id.*

[10] 15 U.S.C. 78k–1.

[11] 17 CFR 240.11Aa3–2.

relating to the effect of the operation of the pilot, is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets. Therefore, the Commission is extending the effectiveness of section 8(c)(ii)(B)(2)(c) of the Plan for an additional five months, until June 30, 2004.

IV. Conclusion

It is therefore ordered, pursuant to section 11A of the Act [12] and Rule 11Aa3–2 thereunder,[13] that the proposed Plan Amendment No. 8 is approved on a pilot basis until June 30, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–2362 Filed 2–4–04; 8:45 am]

BILLING CODE 8010–01–P

[12] 15 U.S.C. 78k–1.

[13] 17 CFR 240.11Aa3–2.

[14] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49145; File No. SR–Amex–2004–03]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange LLC Relating to the Extension of a Linkage Fee Pilot Program

January 29, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 14, 2004, the American Stock Exchange LLC (''Exchange'' or ''Amex'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend for six (6) months, until July 31, 2004, the current pilot program regarding transaction fees for trades executed through the intermarket options linkage (the ''Linkage'') on the Exchange.

The proposed fee schedule is available at the Exchange and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex is proposing to extend for six (6) months, until July 31, 2004, the current pilot program establishing Exchange fees for Principal Orders (''P Orders'') and Principal Acting As Agent Orders (''P/A Orders'') executed through the Linkage. The fees in connection with the pilot program are scheduled to expire on January 31, 2004.[3] The fees charged by the Amex under the pilot program consist of a $0.26 per contract transaction fee, a $0.05 comparison fee, and a $0.05 floor brokerage fee. In addition to the previously approved fees, Amex is proposing to subject incoming P and P/A orders for certain licensed index products to a licensing fee [4] as part of the pilot.[5] These are the same fees charged to specialists and Registered Options Traders (''ROTs'') for transactions executed on the Exchange. Consistent with the Linkage Plan, the Amex does not charge for the execution of Satisfaction Orders sent through the Linkage.[6]

As was the case in its filing for the original pilot program, the Exchange believes that the existing fee amount for equity options that currently is charged to Exchange specialists and ROTs should apply to executions resulting from Linkage Orders. Market makers from other option exchanges accessing the liquidity of the Exchange by sending P or P/A Orders accordingly pay the same fees applicable to Amex specialists and ROTs for such executions.

Based on the limited experience operating the Linkage, the Exchange believes that an extension of the pilot program for six (6) months until July 31, 2004 is appropriate. During this time, the Exchange intends to study the effect of Linkage fees and prepare to file a permanent Linkage fee proposal.

2. Statutory Basis

The Amex believes the proposed rule change is consistent with Section 6(b)(4) of the Act [7] regarding the equitable allocation of reasonable dues, fees and other charges among exchange members and other persons using exchange facilities.

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

No written comments were solicited or received with respect to the proposed rule change.

III. 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–Amex–2004–03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 47822 (May 9, 2003), 68 FR 27115 (May 19, 2003) (SR–Amex–2003–14).

[4] For example, specialists and registered options traders on the Exchange are subject to a $.10 per contract fee for transactions in QQQ options.

[5] Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Jennifer Colihan, Special Counsel, Division of Market Regulation, Commission on January 23, 2004 clarifying that the previous approval of fees for Linkage Orders (*see* note 3, *supra*) did not include the Options Licensing Fee.

[6] *See* Securities Exchange Act Release No. 47298 (January 31, 2003), 68 FR 6524 (February 7, 2003) (File No. 4–429).

[7] 15 U.S.C. 78f(b)(4).

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 Exchange. All submissions should be submitted by February 26, 2004.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, applicable to a national securities exchange,[8] and, in particular, with the requirements of section 6(b) of the Act[9] and the rules and regulations thereunder. The Commission finds that the proposed rule change is consistent with section 6(b)(4) of the Act,[10] which requires that the rules of the Exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Commission believes that the extension of the Exchange's Linkage fee pilot program until July 31, 2004 will give the Exchange and the Commission further opportunity to evaluate whether such fees are appropriate.

The Commission finds good cause, pursuant to section 19(b)(2) of the Act,[11] for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of the filing thereof in the **Federal Register**. The Commission believes that granting accelerated approval will preserve the Exchange's existing pilot program for Linkage fees without interruption as the Amex and the Commission further consider the appropriateness of Linkage fees.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–Amex–2004–03) is hereby approved on an accelerated basis for a pilot period to expire on July 31, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–2358 Filed 2–4–04; 8:45 am]

BILLING CODE 8010–01–P

[8] In approving this rule, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(2).

[12] *Id.*

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49153; File No. SR–CBOE–2003–50]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc., Relating to a Pilot Program for Quotation Spreads in Hybrid Classes

January 29, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on October 31, 2003, the Chicago Board Options Exchange, Inc. (''CBOE'' 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 CBOE submitted Amendment No. 1 to the proposed rule change on January 7, 2004.[3] The CBOE has submitted the proposed rule change under section 19(b)(3)(A) of the Act[4] and Rule 19b-4(f)(6) thereunder,[5] which renders the proposal effective upon filing with the Commission.[6] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend CBOE Rule 8.7, ''Obligations of Market Makers,'' to adopt a six-month pilot program through June 29, 2004 that would permit quote spread parameters of up to $5 on up to 200 option classes traded on the CBOE's Hybrid Trading System (''Hybrid''). The text of the proposed rule change appears below. Proposed new language is *italicized.*

Rule 8.7 Obligations of Market Makers

(a) No change.

(b)

(i)–(iii) No change.

(iv) To price options contracts fairly by, among other things, bidding and/or offering so as to create differences of no more than 0.25 between the bid and offer for each option contract for which the bid is less than $2, no more than $0.40 where the bid is at least $2 but does not exceed $5, no more than $0.50 where the bid is more than $5 but does not exceed $10, no more than $0.80 where the bid is more than $10 but does not exceed $20, and no more than $1 where the bid is more than $20, provided that the appropriate Market Performance Committee may establish differences other than the above for one or more options series. The bid/ask differentials stated above shall not apply to in-the-money series where the underlying securities market is wider than the differentials set forth above. For these series, the bid/ask differential may be as wide as the quotation on the primary market of the underlying security.

(A) For a six month period expiring on August 5, 2004, the Exchange may designate options on up to two hundred (200) underlying securities that may be quoted with a difference not to exceed $5 between the bid and offer regardless of the price of the bid. The $5 quote widths shall only apply to classes trading on the Hybrid system and only following the opening rotation in each security i.e., the widths specified in paragraph (b)(iv) above shall apply during opening rotation).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* letter from Stephen Youhn, CBOE, to Kelly Riley, Senior Special Counsel, Division of Market Regulation, Commission, dated January 6, 2004 (''Amendment No. 1''). In Amendment No. 1, the CBOE proposed to limit its proposed rule change to 200 options classes trading on the CBOE's Hybrid Trading System for a pilot period of six months. In addition, the CBOE agreed to provide the Commission with a pilot program report comparing the Average Quote Width Analysis (''AQWA'') scores for each pilot program option prior to the commencement of the pilot with the AQWA scores for each pilot program option during the pilot period. Finally, the CBOE amended Items 7 and 8 of its Form 19b-4 to designate the filing as ''non-controversial'' pursuant to Rule 19b-4(f)(6) and to indicate that its proposed rule change is substantially similar to an approved pilot program of the International Securities Exchange, Inc.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b-4(f)(6).

[6] For purposes of determining the effective date and abrogation date of this filing, the Commission considers January 7, 2004, the date on which the CBOE filed Amendment No. 1, to be the filing date of this proposed rule 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, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change, as amended, is to establish a six-month pilot program to relax the quotation spread requirements on the CBOE for up to 200 option classes traded on Hybrid. Currently, CBOE Rule 8.7(b)(iv) establishes maximum bid-ask differentials (also referred to as quote spread requirements) that vary from $0.25 to $1.00, depending upon the price of the option.[7] The primary purpose of the quote spread requirements is to help to maintain narrow spreads in options. According to the CBOE, these requirements can have the unintended consequence of requiring market makers to quote at prices that are unnecessarily narrow, thereby exposing them to great risk if markets move quickly.

The CBOE believes that given the competitive market making structure of Hybrid and the existence of vigorous inter-market competition, the mandatory quote spread requirements may not be necessary to ensure narrow and competitive spreads in options. In this regard, the CBOE states that the Hybrid market structure creates strong incentives for competing market makers and other market participants to disseminate competitive prices. The Exchange notes that in Hybrid each market maker quotes independently, and customers and broker-dealers can enter limit orders in the limit order book at prices better than those posted by market makers. The Exchange automatically collects this trading interest information, calculates the CBOE best bid and offer, and disseminates that value to the Options Price Reporting Authority. Accordingly, the CBOE believes that its Hybrid market is competitive, accessible and transparent.

In addition, the CBOE states that market participants in Hybrid have strong incentives to quote competitively. The CBOE allocates incoming orders based on the price and size of orders and quotes resting in the book. Under the CBOE's Ultimate Matching Algorithm (''UMA''), the larger the size of a market maker's quote at the best price, the greater the size of the allocation he or she receives. Conversely, if a market participant does not quote at the best price, the market participant will not participate in any electronic trade allocations. The CBOE believes, moreover, that given NBBO protections in place at each exchange as well as through the Options Market Linkage plan, market participants have even stronger incentives to quote at the best price, lest incoming orders be filled away. Thus, the CBOE believes that inter- and intra-market competitive forces provide strong incentives for market participants to quote competitively and enter quotes and orders that improve the price and depth of the market.

For these reasons, CBOE proposes a pilot program to expand the allowable spread in Hybrid classes to $5 for up to 200 classes of options traded on Hybrid. The proposed quote spread requirements will apply after the opening trading rotation. During the opening trading rotation, market makers will be required to quote in accordance with the traditional bid-ask width requirements. The $5 quotation requirements would become operative immediately following the opening rotation. Non-Hybrid classes will remain subject to the current requirements of CBOE Rule 8.7(b)(iv).

During the pilot program, the CBOE will monitor the quotation quality of all classes in the program and, based on the results, recommend either relaxing the spread requirements for all Hybrid classes, ending the pilot, or adjusting the spread requirements for all Hybrid classes. Immediately following the pilot period, the Exchange will prepare and submit to the Commission a report assessing the operation of the program and, in particular, the quality of the quotations for the pilot options.[8] In this respect, the CBOE commits to provide to the Commission a report analyzing Average Quote Width Analysis (''AQWA'') scores for each of the pilot stocks. The Exchange's report will compare the AQWA scores for each option prior to implementation of the pilot program versus the AQWA scores for each option during the pilot period. The Exchange believes that this information will provide a meaningful comparison during these relevant periods so that the Exchange may determine the effect that $5 quote widths have on quote quality.

The CBOE notes that the proposed quotation spread requirements are in effect on a pilot basis at the International Securities Exchange, Inc. (''ISE''). Specifically, on March 19, 2003, the Commission approved a six-month pilot program (''ISE Pilot'') permitting ISE market makers to expand the allowable spread in their quotations to $5.[9] The ISE Pilot applies to options on 50 underlying stocks and expires on January 31, 2004.[10] In September 2003, the ISE requested permanent approval of the ISE Pilot and sought to expand the terms of the ISE Pilot to all ISE-listed equity options.[11] The CBOE represents that its proposed pilot program is similar to that of the ISE.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.[12] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[13] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

[7] The allowable bid-ask differentials are: $0.25 for options under $2, $0.40 for options between $2 and $5, $0.50 for options between $5 and $10, $0.80 for options between $10 and $20, and $1.00 for options above $20. *See* CBOE Rule 8.7(b)(iv).

[8] *See* Amendment No. 1, *supra* note 3.

[9] *See* Securities Exchange Act Release No. 47532 (March 19, 2003), 68 FR 14728 (March 26, 2003) (order approving File No. SR-ISE–2001–15).

[10] *See* Securities Exchange Act Release No. 48514 (September 22, 2003), 68 FR 55685 (September 26, 2003) (notice of filing and immediate effectiveness of File No. SR-ISE–2003–21).

[11] *See* File No. SR–ISE–2003–22.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The CBOE has filed [14] the proposed rule change pursuant to section 19(b)(3)(A) of the Act [15] and subparagraph (f)(6) of Rule 19b–4 thereunder.[16] 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) is not proposed to become operative for 30 days, or such shorter time as the Commission may designate, and the CBOE provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The CBOE has requested that the Commission waive the 30-day operative delay to allow the CBOE to implement its pilot program, which is similar to the ISE Pilot, without delay.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[17] Specifically, the Commission believes that allowing the CBOE to establish a pilot program that is similar to the ISE Pilot will help the CBOE to compete with the ISE. In addition, the Commission notes that the CBOE's pilot program is substantially similar to the ISE Pilot, which the Commission approved previously on a six-month pilot basis and subsequently extended through January 31, 2004.[18] The Commission believes that the CBOE's proposal raises no new issues or regulatory concerns that the Commission did not consider in approving the ISE Pilot. For these reasons, the Commission designates that the proposal become operative immediately, with the pilot program to extend through June 29, 2004.

At any time within 60 days of the filing of such proposed rule change,[19] 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, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. 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–CBOE–2003–50. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, your 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 the CBOE. All submissions should refer to File No. SR–CBOE–2003–50 and should be submitted by February 26 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 04–2359 Filed 2–4–04; 8:45 am]

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[14] *See supra* note 6.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] 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).

[18] *See supra* notes 8 and 9, and accompanying text.

[19] *See supra* note 6.

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49150; File No. SR–EMCC–2003–04]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Order Approving a Proposed Rule Change Creating an Inactive Member Category

January 29, 2004.

On August 7, 2003, the Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] (File No. SR–EMCC–2003–04). Notice of the proposal was published in the **Federal Register** on September 18, 2003.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change will create a new membership category for inactive members. From time to time, participants find that their activity level in EMCC-cleared instruments does not warrant active membership status and the costs and risks associated with such status. At the same time, however, they are reluctant to terminate their membership because of the amount of time, effort, and cost that would be required to provide EMCC with the membership documents required to regain their membership status should they later choose to take advantage of EMCC's services. To accommodate this need, EMCC proposes to add to its rules a new section for ''inactive status'' and a new definition for the term ''inactive member.'' [3]

In order to be eligible to be an inactive member, the participant must have no pending or fail positions and no unpaid money obligations. After a participant requests that it be placed in inactive status, management will act upon its request. Management's decision to grant a participant's request for inactive status will not require approval by EMCC's Membership and Risk Management Committee, but this committee will be notified.

A participant that requests to be placed on inactive status will be entitled to a refund of its clearing fund deposit

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 48463 (Sept. 9, 2003), 68 FR 54761.

[3] EMCC Rule 2 (Members), sec. 10 (Inactive Status); EMCC Rule 1 (Definitions).

30 calendar days after it is placed on inactive status. A participant that requests that it be placed on inactive status will no longer be assessable pursuant to Rule 4 for losses due to other members.

While in inactive status, the participant must continue to provide the same financial reports that are required of active members and also must comply with all other reporting obligations. A participant that fails to do so will be subject to the same terms and conditions as active members (*e.g.* fines, disciplinary action, termination, *etc.*). An inactive member will also be responsible for a reduced monthly account maintenance fee of $200.

If the participant determines to reactivate its membership status, an initial clearing fund deposit will be determined in the same manner as for a new applicant, and active membership status must be approved by the Membership and Risk Management Committee. Inactive members will not be required to reexecute membership agreements or provide other documentation to the extent EMCC determines that it already has the required documentation or information (*e.g.* financials) necessary to make a determination on the reactivation request. If the participant is inactive for longer than 18 months, EMCC will require an opinion of the participant's counsel in a form satisfactory to EMCC that affirms that there is no substantive change in the opinion(s) previously given as part of the member's original application for membership.

II. Discussion

Section 17A(b)(3)(F) of the Act [4] requires that the rules of a clearing agency assure the safeguarding of securities and funds that are in the custody or control of the clearing agency for which it is responsible. The Commission finds that the proposed rule change is consistent with EMCC's obligations under section 17A(b)(3)(F) because creating a new inactive membership category should provide efficiencies and cost reductions to certain low-volume EMCC members without compromising EMCC's risk management safeguards.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act [5] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–EMCC–2003–04) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–2331 Filed 2–4–04; 8:45 am]

BILLING CODE 8010–01–P

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] 15 U.S.C. 78q–1.

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49142; File No. SR–FICC–2004–02]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Remove From FICC's Rules the Cross-Margining Agreement With BrokerTec Clearing Company and the Cross-Margining Agreement With The Clearing Corporation

January 28, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 12, 2004, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by FICC. 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 remove from FICC's Rules the cross-margining agreement with BrokerTec Clearing Company (''BCC'') [2] and to remove from FICC's Rules the cross-margining agreement with The Clearing Corporation (''TCC'').[3]

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 45656 (March 27, 2002), 67 FR 15646 (April 2, 2002) [File No. SR–GSCC–2002–01].

[3] Securities Exchange Act Release No. 45335 (January 25, 2002), 67 FR 4768 (January 31, 2001) [File No. SR–GSCC–2001–03]. FICC entered into the cross-margining agreement with the Board of Trade Clearing Corporation, predecessor to The Clearing Corporation.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC 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. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to remove from FICC's Rules the cross-margining agreement with BCC and the cross-margining agreement with TCC. Termination of the cross-margining agreement with BCC was necessitated by the fact that BCC ceased clearing operations on November 26, 2003, as a result of the suspension of business by the exchange for which BCC was the clearing corporation, BrokerTec Futures Exchange. Termination of the cross-margining agreement with TCC was necessitated by the fact that on January 2, 2004, TCC ceased clearing the Chicago Board of Trade products that were the subject of the cross-margining arrangement.[5]

The proposed rule change is consistent with section 17A(a)(2)(A)(ii) of the Act [6] and the rules and regulations thereunder because it facilitates the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have any impact on or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been

[4] The Commission has modified the text of the summaries prepared by FICC.

[5] TCC recently announced that it will become the clearing corporation for another exchange and has approached FICC regarding establishing a new cross-margining arrangement. Upon the parties' agreement on the details of the new arrangement, FICC will submit a proposed rule change to the Commission covering the proposed arrangement.

[6] 15 U.S.C. 78q–1(a)(2)(A)(ii).

solicited or received. FICC will notify the Commission of any written comments received by FICC.

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)(iii) of the Act [7] and Rule 19b–4(f)(4) [8] thereunder because the proposed rule does not significantly affect the respective rights or obligations of the clearing agency or persons using the service and does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible. 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–FICC–2004–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, 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 FICC and on FICC's Web site at *www.ficc.com.*

All submissions should refer to File No. SR–FICC–2004–02 and should be submitted by February 26, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 04–2360 Filed 2–4–04; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(4).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49158; File No. SR–FICC–2003–03]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Amend the Criteria Used To Place Members on Surveillance Status

January 30, 2004.

I. Introduction

On March 20, 2003, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') and on June 3 and 18, 2003, amended the proposed rule change SR–FICC–2003–03 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on October 30, 2003.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

Under the current rules of both the Government Securities Division (''GSD'') and the Mortgage-Backed Securities Division (''MBSD'') of FICC, management has the ability to place a member in a surveillance status class depending on whether the member satisfies one or more of the enumerated financial and operational criteria in the specific class. Once placed on surveillance status, FICC closely monitors the member's condition. The current criteria for placing members on surveillance status are broadly written and capture many FICC members that pose minimal financial or operational risk to FICC. This creates administrative burdens for FICC staff, who must more closely monitor these members that pose minimal risk, that is not necessary to protect FICC.

To remedy this problem, FICC has developed new criteria for placing members on surveillance. Specifically, all domestic broker-dealers and banks [3] that are GSD netting members and/or MBSD clearing members will be assigned a rating that is generated by entering financial data of the member into a matrix (''Matrix'') developed by credit risk staff.[4] Those members with a ''weak'' rating (deemed to pose a relatively higher degree of risk to FICC) will be placed on an internal ''watch list'' and will be monitored more closely by credit risk staff.[5] The consequences of being put on the ''watch list'' will be the same as is currently the case with surveillance status in the GSD's rules and will include possibly requiring the member on ''watch list'' status to submit additional financial reports and data and/or make additional clearing or participants fund deposits.[6]

All other categories of netting and clearing members, including non-U.S. netting members and comparison-only members, will not be included in the Matrix process because these members possess characteristics that prevent use of the Matrix to effectively evaluate their risk to FICC. However, these members will be monitored by credit risk staff using financial criteria deemed relevant by FICC.[7] Based on this

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 48689 (October 24, 2003), 68 FR 61844.

[3] The following categories of GSD members will receive ratings: Category 1 and 2 Dealer Netting Members, Category 1 and 2 Inter-Dealer Broker Netting Members, and Bank Netting Members. At MBSD, Comparison and Clearing System Participants that are either banks or broker-dealers will be rated. Domestic broker-dealers and domestic banks are the only member types to which the Matrix will be applicable because (i) they represent the majority of the members of FICC and (ii) their financial reports contain information that lends them to the Matrix approach.

[4] FICC's approach to the analysis of members is based on a thorough quantitative analysis. A broker-dealer member's rating on the Matrix will be based on factors including size (*i.e.*, total excess net capital), capital, leverage, liquidity, and profitability. Banks will be reviewed based on size, capital, asset quality, earnings, and liquidity.

[5] Members will also be evaluated based on their compliance with certain ''parameter breaks'' which will be determined based on applicable monthly and/or quarterly exception reports generated by credit risk staff. A member may be placed on the ''watch list'' for parameter breaks in areas such as excess net capital, excess liquid capital, aggregate indebtedness, leverage ratio, or other financial requirements.

[6] The MBSD's rules do not currently provide for surveillance status, but the MBSD has the right under certain circumstances to require additional financial reports and increased participants fund contribution.

[7] Credit risk staff will monitor these members by reviewing similar criteria as the criteria used for members included in the Matrix. FICC will file a proposed rule change should it decide to use a more applicable Matrix process to evaluate these members.

monitoring, such Members may also be placed on the ''watch list'' if they experience a financial change that presents risk to FICC. Some examples include failure to meet minimum financial requirements or experiencing a significant decrease in equity (for GSD members) or net asset value (for MBSD members). Members placed on the ''watch list'' in this way will also be monitored more closely by credit risk staff.

The GSD will continue, in accordance with its current procedures, to place GSD netting members on the ''watch list'' for failure to comply with operational standards and requirements.[8] MBSD expects to implement a similar provision, as outlined in these rule changes, soon.

III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to facilitate the safeguarding of securities and funds which are in its custody or control or for which it is responsible.[9] The Commission finds that FICC's proposed rule change is consistent with this requirement because it will improve FICC's member surveillance process which will better enable FICC to safeguard the securities and funds which are in its custody or control or for which it is responsible.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–FICC–2003–03) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–2456 Filed 2–4–04; 8:45 am]

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[8] The GSD currently monitors the comparison rates of members. Currently, low comparison rates can result in a member being placed on Class 1 surveillance status. Under the rule change, low comparison rates may result in a GSD member being placed on the ''watch list.'' Both the GSD and the MBSD may monitor for other operational factors in the future such as failing to timely submit trade data on a frequent basis.

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49141; File No. SR–ISE–2001–22]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto by the International Securities Exchange, Inc., To Establish a Solicited Order Mechanism

January 28, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 26, 2001, the International Securities Exchange, Inc. (''ISE'' 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. On January 4, 2002, ISE filed Amendment No. 1 to the proposed rule change.[3] On June 26, 2002, ISE filed Amendment No. 2 to the proposed rule change.[4] On January 6, 2004, ISE filed Amendment No. 3 to the proposed rule change.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its rules regarding solicited orders to establish a Solicited Order Mechanism for matching a member's unsolicited agency orders with orders the member solicits from other broker-dealers. The text of the proposed rule change, as amended, is set forth below. Brackets indicate material to be deleted. *Italics* indicate material to be added.

Rule 716. Block *and Solicited* Trades

* * * * *

(e) Solicited Order Mechanism. The Solicited Order Mechanism is a process by which an Electronic Access Member can attempt to execute orders of 500 or more contracts it represents as agent (the ''Agency Order'') against contra orders that it solicited. Each order entered into the Solicited Order Mechanism shall be designated as all-or-none.

(1) Upon entry of both orders into the Solicited Order Mechanism at a proposed execution price, a broadcast message will be sent to Crowd Participants, which will be given an opportunity to enter Responses with the prices and sizes at which they would be willing to participate in the execution of the Agency Order.

(2) At the end of the period given Crowd Participants to enter Responses, the Agency Order will be automatically executed in full or cancelled.

(i) If at the time of execution there is insufficient size to execute the entire Agency Order at an improved price (or prices), the Agency Order will be executed against the solicited order at the proposed execution price so long as, at the time of execution: (A) the execution price is equal to or better than the best bid or offer on the ISE, and (B) there are no Public Customer orders on the Exchange that are priced equal to the proposed execution price. If there are Public Customer orders on the Exchange on the opposite side of the Agency Order at the proposed execution price and there is sufficient size to execute the entire size of the Agency Order, the Agency Order will be executed against the bid or offer, and the solicited order will be cancelled. The aggregate size of all orders, quotes and Responses at the bid or offer will be used to determine whether the entire Agency Order can be executed. Both the solicited order and Agency Order will be cancelled if an execution would take place at a price that is inferior to the best bid or offer on the ISE, or if there is a Public Customer on the book at the proposed execution price but there is insufficient size on the Exchange to execute the entire Agency Order.

(ii) If at the time of execution there is sufficient size to execute the entire Agency Order at an improved price (or prices), the Agency Order will be executed at the improved price(s), subject to the condition in (i)(A), and the solicited order will be cancelled. The aggregate size of all orders, quotes and Responses at each price will be used to determine whether the entire Agency Order can be executed at an improved price (or prices).

(iii) When executing the Agency Order against the bid or offer in accordance with paragraph (i) above, or at an improved price in accordance with

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated January 3, 2002.

[4] *See* letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Nancy Sanow, Assistant Director, Division, Commission, dated June 25, 2002.

[5] *See* letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Nancy Sanow, Assistant Director, Division, Commission, dated January 5, 2004. Amendment No. 3 replaced the initial filing and Amendment Nos. 1 and 2 entirely. The changes proposed in Amendment No. 3 are incorporated in this notice.

paragraph (ii) above, Public Customer orders will be executed first. Non-Customers participate in the execution of the Agency Order based upon the percentage of the total number of contracts available at the best price that is represented by the size of the Non-Customer interest.

(3) Prior to entering Agency Orders into the Solicited Order Mechanism on behalf of a customer, EAMs must deliver to the customer a written notification informing the customer that its order may be executed using the ISE's Solicited Order Mechanism. Such written notification must disclose the terms and conditions contained in this Rule and must be in a form approved by the Exchange.

Supplementary Material to Rule 716

.02 The time given to Crowd Participants to enter Responses under paragraph (c)(1) shall be thirty (30) seconds[,]. *The time given to Crowd Participants to enter* [and for] Indications [entered] under paragraph (d)(1) *and Responses under paragraph (e)(1)* shall be ten (10) seconds.

.03 Under paragraph (e) above, Members may enter contra orders that are solicited. The Solicited Order Mechanism provides a facility for Members that locate liquidity for their customer orders. Members may not use the Solicited Order Mechanism to circumvent Exchange Rule 717(d) limiting principal transactions. This may include, but is not limited to, Members entering contra orders that are solicited from (1) affiliated broker-dealers, or (2) broker-dealers with which the Member has an arrangement that allows the Member to realize similar economic benefits from the solicited transaction as it would achieve by executing the customer order in whole or in part as principal.

Rule 717. Limitations on Orders

* * * * *

(e) Solicitation Orders.

Electronic Access Members [must expose] *may not execute* orders they represent as agent on the Exchange [for at least thirty (30) seconds before such orders may be executed in whole or in part by] *against* orders solicited from Members and non-member broker-dealers to transact with such orders *unless (i) the unsolicited order is first exposed on the Exchange for at least thirty (30) seconds, or (ii) the Member utilizes the Solicited Order Mechanism pursuant to Rule 716(e).*

* * * * *

Rule 400. Just and Equitable Principles of Trade

* * * * *

Supplemental Material to Rule 400

.02 It may be considered conduct inconsistent with just and equitable principles of trade for any person associated with a Member who has knowledge of all material terms and conditions of:

(i) An order and a solicited order,
(ii) An order being facilitated, or
(iii) Orders being crossed;

the execution of which are imminent, to enter, based on such knowledge, an order to buy or sell an option for the same underlying security as any option that is the subject of the order, or an order to buy or sell the security underlying such class, or an order to buy or sell any related instrument until (i) the terms of the order and any changes in the terms of the order of which the person associated with the Member has knowledge are disclosed to the trading crowd, or (ii) the trade can no longer reasonably be considered imminent in view of the passage of time since the order was received. The terms of an order are ''disclosed'' to the trading crowd on the Exchange when the order is entered into the System, [or into] the Facilitation *or Solicited Order* Mechanism*s.*

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 ISE 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

Under ISE Rule 717(e), an Electronic Access Member (''EAM'') is required to expose an unsolicited agency order (the ''Agency Order'') for at least 30 seconds before crossing it against an order that it has solicited from other broker-dealers. Currently, an EAM can comply with this requirement only by entering the Agency Order on the Exchange, waiting 30 seconds, and then entering the solicited order. The Exchange states that, due to this 30-second exposure requirement, EAMs have no level of assurance that they will be able to pair solicited orders against Agency Orders for execution, and thus they take this type of business to the other options exchanges, which permit these trades to be executed without a 30-second exposure requirement.[6]

To better compete for solicited transactions, the ISE has developed a Solicited Order Mechanism. The proposed rule change would implement this functionality, allowing EAMs to enter both sides of a proposed solicited cross, where one of the sides was solicited.[7] Such trades would be required to be for at least 500 contracts and would be executed only if the price is at or between the ISE best bid or offer (''BBO''). Both orders entered into the Solicited Order Mechanism would be required to be all-or-none limit orders.

When a proposed solicited cross is entered into the Mechanism, the Exchange would send a message to the Crowd Participants,[8] giving them ten seconds to respond with a price that would improve the execution price for the Agency Order.[9] The proposed matched trade will be executed unless there is sufficient size to execute the entire Agency Order at a better price than the proposed cross price, or there is a Public Customer order on the book at the proposed cross price. In the case where there is one or more Public Customer orders on the book at the proposed execution price on the opposite side of the Agency Order, the

[6] *See* Commentary .03 to American Stock Exchange Rule 950(d); Chicago Board Options Exchange Rule 6.9; Pacific Exchange Rule 6.49; and Philadelphia Stock Exchange Rule 1064(c).

[7] Although orders solicited from public customers are not subject to the exposure requirement of Rule 717(a), they would be permitted to be entered into the Solicited Order Mechanism should Exchange members choose this alternative.

[8] In another proposed rule change on file with the Commission, the Exchange proposes to allow all members, rather than the more limited Crowd Participants, to participate in Block and Facilitation Mechanism trades. *See* Securities Exchange Act Release No. 49056 (January 12, 2004), 69 FR 2798 (January 20, 2004) (concerning File No. SR–ISE–2003–07). The Exchange notes that if that proposal is approved prior to the approval of the instant proposed rule change, the Exchange will amend the instant proposed rule change so that all members may similarly participate in trades executed through the Solicited Order Mechanism.

[9] The ISE notes that the Commission previously determined that a ten second exposure period in the ISE's electronic marketplace is sufficient to provide participants with an opportunity to respond to orders entered into the Facilitation Mechanism. *See* Securities Exchange Act Release No. 46514 (September 18, 2002), 67 FR 60267 (September 25, 2002). The ISE states that the same technology would be used by the Solicitation Mechanism, and members would be able to respond in exactly the same manner as they do to orders executed through the Facilitation Mechanism.

Agency Order would be executed against the book if there is sufficient size available at the bid or offer to execute the entire size of the Agency Order.[10] If there is insufficient size to execute the entire Agency Order, the proposed cross would not be executed and would be cancelled. Similarly, the transaction would be cancelled if the execution price would be inferior to the BBO on the Exchange.

The proposed rule also would require members to deliver to customers a written document describing the terms and conditions of the Solicited Order Mechanism prior to executing Agency Orders using the Solicited Order Mechanism. Such written document would be required to be in a form approved by the Exchange.

Finally, the proposed rule change specifies in new Supplemental Material to Rule 716 that members would be prohibited from using the Solicited Order Mechanism to circumvent Rule 717(d) limiting principal transactions. The proposed rule change also adds a reference to the Solicited Order Mechanism in the Supplemental Material to Rule 400 (Just and Equitable Principles of Trade) that prohibits anticipatory hedging activities prior to the entry of an order on the Exchange.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under section 6(b)(5) of the Act[11] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange states that the implementation of the Solicited Order Mechanism will allow the Exchange to better compete for solicited transactions, while providing an opportunity for price improvement for Agency Orders and assuring that public customers on the book are protected.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will allow the Exchange to better compete for solicited transactions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. 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–ISE–2001–22. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, 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 Room. Copies of the filing will also be available for inspection and copying at the principal offices of the ISE. All submissions should refer to File No. SR–ISE–2001–22 and should be submitted by February 26, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–2329 Filed 2–4–04; 8:45 am]

BILLING CODE 8010–01–P

[10] When the Agency Order is executed at an improved price or at the proposed execution price against the book, Public Customer orders are given priority in the execution, and then all other non-professional interest at the same price would participate pro-rata based on size.

[11] 15 U.S.C. 78f(b)(5).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49149; File No. SR–ISE–2004–02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange, Inc. Relating to the Extension of the Pilot Program for Quotation Spreads

January 29, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on January 22, 2004, the International Securities Exchange, Inc. (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in items I and II below, which items have been prepared by the ISE. The proposed rule change has been filed by the ISE under Rule 19b-4(f)(6) of 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 ISE proposes to extend until March 31, 2004, a pilot program permitting the allowable quotation spread for options on up to 50 equity securities to be $5, regardless of the price of the bid (''Pilot Program''). The ISE proposes no substantive changes to the Pilot Program other than extending its operation through March 31, 2004. Pursuant to Rule 19b-4(f)(6) under the Act, the ISE requests that the Commission waive the 30-day pre-operative requirement contained in Rule 19b-4(f)(6)(iii).[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] 17 CFR 240.19b-4(f)(6).

[4] 17 CFR 240.19b-4(f)(6)(iii).

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 ISE 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 ISE 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 ISE's rules contain maximum quotation spread requirements that vary from $.25 to $1.00, depending on the price of the option. On March 19, 2003, the Commission approved a proposal to amend Supplementary Material .01 to ISE Rule 803, ''Obligations of Market Makers,'' to establish a six-month Pilot Program in which the allowable quotation spread for options on up to 50 underlying equity securities would be $5, regardless of the price of the bid.[5] The six-month period expired on September 19, 2003, and the Pilot Program was extended through January 31, 2004.[6] As required by the Pilot Program Approval Order, the ISE has submitted to the Commission a report detailing the ISE's experience with the Pilot Program.

The ISE believes that the Pilot Program has been successful, and the ISE has filed a proposal with the Commission to make the quote spread Pilot Program permanent and to apply it to all ISE listed equity options.[7] The purpose of the current proposal is to extend the Pilot Program in its present form until March 31, 2004, while the Commission reviews the ISE's Pilot Program report and considers the ISE's proposal to make the Pilot Program permanent.

2. Statutory Basis

According to the ISE, the statutory basis for the proposal is the requirement under section 6(b)(5) of the Act[8] that a national securities exchange have rules that are designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The ISE does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The ISE has not solicited, and does not intend to solicit, comments on the proposed rule change. The ISE has not received any unsolicited written comments from members or other interested persons.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The ISE has filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act[9] and subparagraph (f)(6) of Rule 19b-4 thereunder.[10] 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) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.[11]

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The ISE has requested that the Commission waive the 30-day operative delay to prevent a lapse in the operation of the Pilot Program.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will permit the Pilot Program to continue without interruption through March 31, 2004. For this reason, the Commission designates the proposal to be operative upon filing with the Commission.[12]

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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it 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–ISE–2004–02. The file number should be included on the subject line if e-mail is used. To help the Commission 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 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 ISE. All submissions should refer to File No. SR–ISE–2004–02 and should be submitted by February 26, 2004.

[5] *See* Securities Exchange Act Release No. 47532, 68 FR 14728 (March 26, 2003) (order approving File No. SR–ISE–2001–15) (''Pilot Program Approval Order'').

[6] *See* Securities Exchange Act Release No. 48514 (September 22, 2003), 68 FR 55685 (September 26, 2003) (notice of filing and immediate effectiveness of File No. SR–ISE–2003–21).

[7] *See* File No. SR–ISE–2003–22.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b-4(f)(6).

[11] The ISE provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

[12] 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).

[13] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–2336 Filed 2–4–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49147; File No. SR–ISE–2003–32]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the International Securities Exchange, Inc. Relating to a Fee Reduction and Fee Cap

January 29, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 20, 2003, the International Securities Exchange, Inc. (''Exchange'' or ''ISE'') 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 ISE. On January 2, 2004, the ISE filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE is proposing, on a pilot basis from December 1, 2003 through May 31, 2004, a reduction in and a cap on execution fees, and a cap on comparison fees for options on the Nasdaq 100 Index Tracking Stock[sm] (''QQQ'').

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 ISE 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. ISE 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 ISE is proposing to amend its Schedule of Fees to impose, on a pilot basis through May 31, 2004, both a reduction in and a cap on execution fees, and a cap on comparison fees for QQQ options. Specifically, any member with monthly average daily trading volume (''ADV'') of 8,000 contracts in QQQ options would receive a $.10 discount from the standard execution fees (excluding surcharge fees) for contracts traded above that amount, up to ADV of 10,000 contracts. For contracts in QQQ options traded in excess of 10,000 ADV for a month, the Exchange will waive all execution fees (excluding surcharge fees) and comparison fees. Current ISE execution fees (excluding surcharge fees) range from $.21 to $.12 a contract, depending on the exchange's trading volume; the comparison fee is $.03 a contract. The proposed fee changes are intended to increase the Exchange's competitiveness in trading the QQQ options.

2. Basis

The ISE believes that the proposal is consistent with section 6(b) of the Act,[4] and in particular, with the requirements of section 6(b)(4) of the Act,[5] 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 ISE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The ISE has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[6] and Rule 19b–4(f)(2)[7] thereunder, in that it establishes or changes a due, fee, or other charge imposed by the self-regulatory organization, which renders the proposal effective upon filing. At any time within 60 days of the filing of Amendment No. 1 to the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[8]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. 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–ISE–2003–32. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hard copy 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 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 number SR–ISE–2003–32 and should be submitted by February 26, 2004.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated January 2, 2004 (''Amendment No. 1''). Amendment No. 1 replaces the original proposal in its entirety.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 19b–4(f)(2).

[8] For purposes of calculating the sixty-day abrogation period, the Commission considers the abrogation period to have begun on January 2, 2004, the date on which the Commission received Amendment No. 1.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–2337 Filed 2–4–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49133; File No. SR–NASD–2003–198]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Waiver of Certain Listing Fees

January 28, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 29, 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. Nasdaq filed this proposal pursuant to section 19(b)(3)(A) of the Exchange Act[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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

Nasdaq proposes to waive certain listing fees. Below is the text of the proposed rule change. Proposed new language is underlined.

* * * * *

4500 Issuer Listing Fees

IM–4500–1 Waiver of Fees Upon Application in Certain Merger Situations

Rules 4510(c)(2), 4510(d)(3), and 4520(c)(3) provide Nasdaq with the discretion to waive all or part of the annual listing fees prescribed in this Rule 4500 series. Pursuant to that authority, Nasdaq has determined to permit a Nasdaq issuer that completes a merger with another Nasdaq issuer during the first 90 days of a calendar year to apply for and receive a waiver for 75% of the annual fees assessed to the acquired Nasdaq issuer. Issuers must apply for the credit no later than June 30 of the year in which the merger occurred. Applications should be addressed to: Finance Department CCG Billing Operations, The Nasdaq Stock Market Inc., 9513 Key West Avenue, 4th Floor, Rockville, Maryland 20850.

* * * * *

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

NASD Rules 4510(c)(2), 4510(d)(3), and 4520(c)(3) provide Nasdaq with the discretion to waive all or part of the annual listing fees prescribed in this NASD Rule 4500 series. Pursuant to that authority, Nasdaq has determined to permit a Nasdaq issuer that completes a merger with another Nasdaq issuer during the first 90 days of a calendar year to apply for and receive a waiver for 75% of the annual fees assessed to the acquired Nasdaq issuer. Issuers must apply for the credit no later than June 30 of the year in which the merger occurred. Nasdaq has determined to take this action because it believes that it is equitable to provide a partial credit for annual listing fees in order to avoid the assessment of two fees where a merger between two currently listed Nasdaq issuers has occurred within the first 90 days of a billing year.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(5)[5] and 15A(b)(6)[6] of the Act. Section 15A(b)(5) of the Act[7] requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. Nasdaq believes that this proposal, which provides for a partial waiver of annual fees in certain merger situations, is an equitable allocation of fees.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Nasdaq neither solicited nor received written comments with respect to 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)(i) of the Act[8] and Rule 19b–4(f)(1) thereunder,[9] because it constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule, and therefore the proposed rule change is effective immediately upon filing.

At any time within 60 days of the filing of a rule change pursuant to section 19(b)(3)(A) of the Act,[10] 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. Comments should be submitted electronically at the following e-mail address: *rule-comments@sec.gov.*

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(1).

[5] 15 U.S.C. 78o–3(b)(5).

[6] 15 U.S.C. 78o–3(b)(6).

[7] 15 U.S.C. 78o–3(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(i).

[9] 17 CFR 240.19b–4(f)(1).

[10] 15 U.S.C. 78s(b)(3)(A).

All comment letters should refer to File No. SR–NASD–2003–198. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hard copy 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should be submitted by February 26, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–2330 Filed 2–4–04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49134; File No. SR–NASD–2003–199]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Listing Fee Waivers

January 28, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 29, 2003, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to waive retroactively certain listing fees. Below is the text of the proposed rule change. Proposed new language is underlined.

* * * * *

4500 Issuer Listing Fees

IM–4500–2 Waiver of Fees Upon Application in Certain Merger Situations Occurring in 2003

Rules 4510(c)(2), 4510(d)(3), and 4520(d)(3) provide Nasdaq with the discretion to waive all or part of the annual listing fees prescribed in this Rule 4500 series. Pursuant to that authority, Nasdaq has determined to permit a Nasdaq issuer that completed a merger with another Nasdaq issuer during the first 90 days of 2003 to apply for and receive a waiver for 75% of the annual fees assessed to the acquired Nasdaq issuer. Issuers must apply for the credit no later than June 30, 2004. Applications should be addressed to: Finance Department CCG Billing Operations, The Nasdaq Stock Market Inc., 9513 Key West Avenue, 4th Floor, Rockville Maryland, 20850.

* * * * *

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

NASD Rules 4510(c)(2), 4510(d)(3), and 4520(d)(3) provide Nasdaq with the discretion to waive all or part of the annual listing fees prescribed in this Rule 4500 series. Pursuant to that authority, Nasdaq has determined to permit a Nasdaq issuer that completed a merger with another Nasdaq issuer during the first 90 days of 2003 to apply for and receive a waiver for 75% of the annual fees assessed to the acquired Nasdaq issuer. Issuers must apply for the credit no later than June 30, 2004. Nasdaq has determined to take this action because it believes that it is equitable to provide a partial credit for annual listing fees in order to avoid the assessment of two fees where a merger has occurred within the first 90 days of a given billing year. Nasdaq will send a communication to issuers regarding the availability of this waiver.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5)[3] and 15A(b)(6)[4] of the Act. Section 15A(b)(5) of the Act[5] requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. Nasdaq believes that this proposal, which provides for a partial waiver of annual fees in certain merger situations, is an equitable allocation of fees.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Nasdaq neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

[3] 15 U.S.C. 78o–3(b)(5).

[4] 15 U.S.C. 78o–3(b)(6).

[5] 15 U.S.C. 78o–3(b)(5).

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 should be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR–NASD–2003–199. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hard copy 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should be submitted by February 26, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–2332 Filed 2–4–04; 8:45 am]

BILLING CODE 8010–01–P

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49152; File No. SR–NASD–2003–175]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Repeal Rule 4613A(e)(1) Requiring Same-Priced Quotations on Multiple Markets

January 29, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 26, 2003, the National Association of Securities Dealers, Inc. (''NASD''), 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 NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to repeal NASD Rule 4613A(e)(1), which requires members that display priced quotations for a Nasdaq security on multiple market centers to display the same-priced quotations on each market center. Below is the text of the proposed rule change. Proposed deletions are in brackets.

* * * * *

4613A. Character of Quotations

(a) through (d) No change.

(e) Other Quotation Obligations

[(1) Members that display priced quotations on a real-time basis for Nasdaq securities in two or more market centers that permit quotation updates on a real-time basis must display the same priced quotations for the security in each market center.]

[(2)] As required by Rule 11Ac1–2(e) under the Exchange Act, a member that uses an ADF terminal or other approved ADF electronic interface shall be obligated to have available in close proximity to the ADF terminal or interface a quotation service that disseminates the bid price and offer price from all markets trading that Nasdaq security.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD 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

NASD is proposing to repeal NASD Rule 4613A(e)(1), which requires members that display priced quotations for a Nasdaq security in two or more market centers to display the same priced quotations for that security in each market center. Pursuant to this rule, members that choose to quote in multiple market centers are not permitted to display an inferior quote in any of those market centers. NASD Rule 4613A(e)(1) was proposed as part of the Alternative Display Facility (''ADF'') pilot rules[3] because NASD believed it important to prevent fragmentation of quotations by a member (which might serve to undermine the transparency of the best quotes in the market), given the increased potential that members might choose to dual quote on several market centers, including ADF. This provision was modeled closely after NASD Rule 2320(g)(2), which applies to over-the-counter (''OTC'') securities, such as those securities quoted through the OTC Bulletin Board and the Electronic Pink Sheets.

Since its adoption, NASD has monitored the impact of NASD Rule 4613A(e)(1) and believes that the benefits of the same-priced quotation requirement to the trading in Nasdaq securities have been difficult to quantify. As an initial matter, NASD believes that the Commission's vendor display rule (Rule 11Ac1–2 under the Act) makes NASD Rule 4613A(e)(1) less critical to preserving transparency in the market. NASD also believes that by generally requiring that vendors provide a consolidated display of quotation information for Nasdaq securities from all reporting market centers, the vendor display rule ensures that quotations from each market center are visible, thereby facilitating transparency in the market and best execution. However, since a similar vendor display provision does not apply to the OTC market, NASD believes that it is more important to require that members display the same priced quotation in multiple markets to preserve transparency in that marketplace.

Further, NASD believes that NASD Rule 4613A(e)(1) has resulted in problems given recent market structure developments. For example, a member now may have several completely distinct business units, such as a market making unit and an electronic communications network (''ECN''), which are used by different types of clients and, therefore, represent separate

[3] Securities Exchange Act Release No. 46249 (July 24, 2002), 67 FR 49822 (July 31, 2002). Subsequent to the initial approval of the ADF rules, the Commission approved an extension of the pilot until January 26, 2004. Securities Exchange Act Release No. 47633 (April 10, 2003), 68 FR 19043 (April 17, 2003).

pools of liquidity. A member may choose to display quotations relating to its market-making unit on Nasdaq and its ECN on ADF. Under such circumstances, NASD believes that compliance with NASD Rule 4613A(e)(1) would, in effect, require the member to consolidate these distinct business units for purposes of displaying quotations on each market, which would be contrary to the business model of the firm since these quotes represent separate liquidity pools. As an alternative, the member could establish separate broker/dealers for each business unit, which NASD believes is overly burdensome for members given the marginal benefits associated with NASD Rule 4613A(e)(1).

For the reasons discussed above, the proposed rule change would repeal NASD Rule 4613A(e)(1). However, NASD represents that it will continue, as it currently does today, to monitor and surveil for any potentially collusive or manipulative conduct relating to quotation activity on markets under its regulatory authority.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[4] which requires, among other things, that NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change accomplishes these ends. In light of the Commission's vendor display rule, NASD believes NASD Rule 4316A(e)(1) does not serve any additional beneficial purposes and may, in fact, interfere with competition and certain member's business models.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD 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.

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.

[4] 15 U.S.C. 78*o*–3(b)(6).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NASD 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. In particular, the Commission solicits comment on (i) whether the proposed rule change will facilitate multiple quotations that erode SEC Rule 11Ac1–1 and (ii) whether the proposed rule change will facilitate locking or crossing the quotes of other market centers. 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–NASD–2003–175. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hard copy 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of NASD.

All submissions should refer to File No. SR–NASD–2003–175 and should be submitted by February 26, 2004.

[5] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 04–2361 Filed 2–4–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49154; File No. SR–NYSE–2003–43]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto by the New York Stock Exchange, Inc. and Order Granting Accelerated Approval of the Proposed Rule Change To Establish a Pilot Program To Amend the Minimum Numerical Standards (Sections 102.01C, 103.01B, 802.01B, and 802.01C of the Listed Company Manual)

January 29, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 22, 2003, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange.[3] On January 19, 2004, the NYSE submitted Amendment No. 1 to the proposed rule change.[4] On January 23, 2004, the NYSE submitted Amendment No. 2 to the proposed rule change.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change on a six-month pilot basis.

[1] 15 U.S.C. 78*s*(b)(1).

[2] 17 CFR 240.19b–4.

[3] With the permission of NYSE, the Commission has made typographical, non-substantive corrections to the text of the proposed rule change. *See* Telephone conversation between Annemarie Tierney, Assistant General Counsel, NYSE, and Susie Cho, Special Counsel, Division of Market Regulation (''Division''), Commission on January 21, 2004.

[4] *See* Letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division, Commission, dated January 16, 2004 (''Amendment No. 1''). Amendment No. 1 replaced the original proposed rule change in its entirety.

[5] *See* Letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division, Commission, dated January 22, 2004 (''Amendment No. 2''). Amendment No. 2

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is proposing to amend, on a pilot basis, to expire on July 29, 2004, Sections 102.01C, 103.01B, 802.01B and 802.01C of the Exchange's Listed Company Manual (the ''Manual'') regarding the minimum numerical original and continued listing standards. Proposed new language is *italicized*; proposed deletions are in [brackets].

* * * * *

Listed Company Manual

102.00 Domestic Companies

* * * * *

102.01C A company must meet one of the following financial standards.

(I) *Earnings Test* (1) Pre-tax earnings from continuing operations and after minority interest, amortization and equity in the earnings or losses of investees as adjusted [(E)] for items specified in (2)(a) through (i) below [(F)] must total at least[.]

[$2,500,000 in the latest fiscal year together with $2,000,000 in each of the preceding two years; or $6,500,000] *$10,000,000* in the aggregate for the last three fiscal years together with a minimum of $[4,5]*2,0*00,000 in the *two* most recent fiscal year*s*, and positive amounts [for] *in all* [each of the preceding two] *three* years.

(2) Adjustments *(E)(F)* that must be included in the calculation of the amounts required in paragraph (1) are as follows:

(a) Application of Use of Proceeds. If a company is in registration with the SEC and is in the process of an equity offering, adjustments should be made to reflect the net proceeds of that offering, and the specified intended application(s) of such proceeds to:

(i) Pay off existing debt. The adjustment will include elimination of the actual historical interest on debt being retired with offering proceeds of all relevant periods. If the event giving rise to the adjustment occurred during a time-period such that *pro forma* amounts are not set forth in the SEC registration statement (typically, the *pro forma* effect of repayment of debt will be provided in the current registration statement only with respect to the last fiscal year plus any interim period in accordance with SEC rules), the company must prepare the relevant adjusted financial data to reflect the adjustment to its historical financial data, and its outside audit firm must provide a report of having applied agreed-upon procedures with respect to such adjustments. Such report must be prepared in accordance with the standards established by the American Institute of Certified Public Accountants.

(ii) Fund an acquisition*:*

(1) The adjustments will include those applicable with respect to acquisition(s) to be funded with the proceeds. Adjustments will be made that are disclosed as such in accordance with Rule 3–05 ''Financial Statements of Business Acquired or to be Acquired'' and Article 11 of Regulation S–X. Adjustments will be made for all the relevant periods for those acquisitions for which historical financial information of the acquiree is required to be disclosed in the SEC registration statement; and

(2) Adjustments applicable to any period for which *pro forma* numbers are not set forth in the registration statement shall be accompanied by the relevant adjusted financial data to combine the historical results of the acquiree (or relevant portion thereof) and acquiror, as disclosed in the company's SEC filing. Under SEC rules, the number of periods disclosed depends upon the significance level of the acquiree to the acquiror. The adjustments will include those necessary to reflect (a) the allocation of the purchase price, including adjusting assets and liabilities of the acquiree to fair value recognizing any intangibles (and associated amortization and depreciation), and (b) the effects of additional financing to complete the acquisition. The company must prepare the relevant adjusted financial data to reflect the adjustment to its historical financial data, and its outside audit firm must provide a report of having applied agreed-upon procedures with respect to such adjustments. Such report must be prepared in accordance with the standards established by the American Institute of Certified Public Accountants.

(b) Acquisitions and Dispositions: In instances other than acquisitions (and related dispositions of part of the acquiree) funded with the use of proceeds, adjustments will be made for those acquisitions and dispositions that are disclosed as such in a company's financial statements in accordance with Rule 3–05 ''Financial Statements of Business Acquired or to be Acquired'' and Article 11 of Regulation S–X. If the disclosure does not specify pre-tax earnings from continuing operations, minority interest, and equity in the earnings or losses of investees, then such data must be prepared by the company's outside audit firm for the Exchange's consideration. In this regard, the audit firm would have to issue an independent accountant's report on applying agreed-upon procedures in accordance with the standards established by the American Institute of Certified Public Accountants.

(c) Exclusion of Merger or Acquisition Related Costs Recorded under Pooling of Interests*;*

(d) Exclusion of Charges or Income Specifically Disclosed in the Applicant's SEC Filing for the Following:

(i) In connection with exiting an activity for the following:
  (1) Costs of severance and termination benefits
  (2) Costs and associated revenues and expenses associated with the elimination and reduction of product lines
  (3) Costs to consolidate or re-locate plant and office facilities
  (4) Loss or gain on disposal of long-lived assets
(ii) Environmental clean-up costs
(iii) Litigation settlements

(e) Exclusion of Impairment Charges on Long-lived Assets (goodwill, property, plant, and equipment, and other long-lived assets);

(f) Exclusion of Gains or Losses Associated with Sales of a Subsidiary's or Investee's Stock;

(g) Exclusion of In-Process Purchased Research and Development Charges;

(h) Regulation S–X Article 11 Adjustments. Adjustments will include those contained in a company's *pro forma* financial statements provided in a current filing with the SEC pursuant to SEC rules and regulations governing Article 11 ''Pro forma information of Regulation S–X Part 210—Form and Content of and Requirements for Financial Statements.''

(i) Exclusion of the Cumulative Effect of Adoption of New Accounting Standards. (APB Opinion No. 20)

Or

(II) *Valuation/Revenue Test. Companies listing under this standard may satisfy either (a) the Valuation/Revenue with Cash Flow Test or (b) the Pure Valuation/Revenue Test.*

(a) *Valuation/Revenue with Cash Flow Test*—[A Company with]

(1) [not less than] *At least* $500,000,000 *in global* market capitalization, [and]

(2) *At least* $100,000,000 in revenues during the most recent 12 month period, [must] *and*

(3) [demonstrate from the operating activity section of its cash flow statement that its cash flow, which represents net income adjusted to (a) reconcile such amounts to cash provided by operating activities, and (b) exclude changes in operating assets and

liabilities, is] at least $25,000,000 [in the] aggregate *cash flows* for the last three fiscal years [and each year is reported as a] *with* positive amounts *in all three years, as* adjusted [(E)(F)] pursuant to Para. 102.01C (I)(2)(a) and (b), as applicable.

A Company must demonstrate cash flow based on the operating activity section of its cash flow statement. Cash flow represents net income adjusted to (a) reconcile such amounts to cash provided by operating activities, and (b) exclude changes in operating assets and liabilities. With respect to reconciling amounts pursuant to this Paragraph, all such amounts are limited to the amount included in the company's income statement.

(b) Pure Valuation/Revenue Test—

(1) At least $750,000,000 in global market capitalization, and

(2) At least $75,000,000 in revenues during the most recent fiscal year.

In the case of companies listing in connection with an IPO, the company's underwriter (or, in the case of a spin-off, the parent company's investment banker or other financial advisor) must provide a written representation that demonstrates the company's ability to meet the $750,000,000 global market capitalization requirement based upon the completion of the offering (or distribution). For all other companies, market capitalization valuation will be determined over a six-month average.

[Or

(III) For companies with not less than $1 billion in total worldwide market capitalization and with not less than $100 million revenues in the recent fiscal year, there are no additional financial requirements. For such companies listing in connection with an IPO, the market capitalization valuation must be demonstrated by written representation from the underwriter (or, in the case of a spin-off, by a written representation from the parent company's investment banker or other financial advisor) of the total market capitalization of the company upon completion of the offering (or distribution). For all other such companies, the market capitalization valuation will be determined over a six-month average.]

Or

(III) Affiliated Company Test

(1) at least $500,000,000 in global market capitalization;

(2) at least 12 months of operating history (although a company is not required to have been a separate corporate entity for such period); and

(3) the company's parent or affiliated company is a listed company in good standing (as evidenced by written representation from the company or its financial advisor excluding that portion of the balance sheet attributable to the new entity); and

(4) the company's parent or affiliated company retains control of the entity or is under common control with the entity.

''Control'' for purposes of the Affiliated Company Test will mean having the ability to exercise significant influence over the operating and financial policies of the listing company, and will be presumed to exist where the parent or affiliated company holds 20% or more of the listing company's voting stock directly or indirectly. Other indicia that may be taken into account when determining whether control exists include board representation, participation in policy making processes, material intercompany transactions, interchange of managerial personnel, and technological dependency. The Affiliated Company Test is taken from and intended to be consistent with generally accepted accounting principles regarding use of the equity method of accounting for an investment in common stock.

(E) Only adjustments arising from events specifically so indicated in the company's SEC filing(s) as to both categorization and amount can and must be made. Any such adjustment applies only in the year in which the event occurred except with regard to the use of proceeds or acquisitions and dispositions. Any company for which the Exchange relies on adjustments in granting clearance must include all relevant adjusted financial data in its listing application as specified in Para. 702.04, and disclose the use of adjustments by including a statement in a press release (i) that additional information is available upon which the NYSE relied to list the company and is included in the listing application and (ii) that such information is available to the public upon request.

(F) [The above-referenced adjustments are measured and recognized] *Interested parties should apply the list of adjustments* in accordance with any relevant accounting literature, such as that published by the Financial Accounting Standards Board (''FASB''), the Accounting Principles Board (''APB''), the Emerging Issues Task Force (''EITF''), the American Institute of Certified Public Accountants (''AICPA''), and the SEC. Any literature is intended to guide issuers and investors regarding the affected adjustment listed. If successor interpretations (or guidelines) are published with respect to any particular adjustment, the most recent relevant interpretations (or guidelines) should be consulted.

* * * * *

[(IV) Affiliated Company Standard

(1) Market capitalization of $500 million or greater (as evidenced by written representation from the underwriter, company, or its investment advisor);

(2) Minimum of 12 months of operations (although it is not required to have been a separate corporate entity for such period);

(3) Parent or affiliated company is a listed company in good standing (as evidenced by written representation from the company or its financial advisor excluding that portion of the balance sheet attributable to the new entity); and

(4) Parent/affiliated company retains control* of the entity or is under common control* with the entity.

*''Control'' for these purposes will mean the ability to exercise significant influence over operating and financial policies, and will be presumed to exist when the parent involved holds directly or indirectly 20% or more of the entity's voting stock. Other indicia that may be taken into account for this purpose include board representation, participation in policy making processes, material intercompany transactions, interchange of managerial personnel, and technological dependency. This test is taken from and intended to be consistent with generally accepted accounting principles regarding use of the equity method of accounting for an investment in common stock.]

* * * * *

103.00 Non-U.S. Companies

* * * * *

103.01 Minimum Numerical Standards—Non-U.S. Companies—Equity Listings Distribution

* * * * *

103.01B A company must meet one of the following financial standards:

(I) *Earnings Test*

(1) Pre-tax earnings from continuing operations and after minority interest, amortization and equity in the earnings or losses of investees adjusted [(C)(D)] for items specified in para. 102.01C(I)(2)(a) through (i) above, and 103.01*B*(I)(2) below, must total at least[:] $100,000,000 in the aggregate for the last three fiscal years [together] with a minimum of $25,000,000 in each of the most recent two *fiscal* years.

(2) Additional Adjustment *(C)(D)* Available for Foreign Currency Devaluation. Non-operating adjustments when associated with translation adjustments representing a significant devaluation of a country's currency (*e.g.*, the currency of a company's country of domicile devalues by more than 10 percent against the U.S. dollar within a six-month period). Adjustments may not include those associated with normal currency gains or losses. (3) Reconciliation to U.S. GAAP of the third year back would only be required if the Exchange determines that reconciliation is necessary to demonstrate that the aggregate $100,000,000 threshold is satisfied.

Or

(II) Valuation/Revenue Test

Companies listing under this standard may satisfy either (a) the Valuation/Revenue with Cash Flow Test or (b) the Pure Valuation/Revenue Test.

(a) Valuation/Revenue with Cash Flow Test—[A Company with]

(1) [not less than] *at least* $500,000,000 *in global* market capitalization, [and]

(2) *at least* $100,000,000 *in* revenues during the most recent 12 month period, [must] *and*

(3) [demonstrate from the operating activity section of its cash flow statement that its operating cash flow excluding changes in operating assets and liabilities is] at least $100,000,000 [in the] aggregate *cash flows* for the last three fiscal years where each of the two most recent years is reported at a minimum of $25,000,000, [as] adjusted *in accordance with* (C)(D) [for] Para. 102.01C (I)(2) (a) and (b).

A Company must demonstrate cash flow based on the operating activity section of its cash flow statement. Cash flow represents net income adjusted to (a) reconcile such amounts to cash provided by operating activities, and (b) exclude changes in operating assets and liabilities. With respect to reconciling amounts pursuant to this Paragraph, all such amounts are limited to the amount included in the company's income statement.

Reconciliation to U.S. GAAP of the third *fiscal* year back would only be required if the Exchange determines that reconciliation is necessary to demonstrate that the [aggregate] $100,000,000 *aggregate cash flow* threshold is satisfied.

(b) Pure Valuation/Revenue Test—

(1) at least $750,000,000 in global market capitalization, and

(2) at least $75,000,000 in revenues during the most recent fiscal year.

In the case of companies listing in connection with an IPO, the company's underwriter (or, in the case of a spin-off, the parent company's investment banker or other financial advisor) must provide a written representation that demonstrates the company's ability to meet the $750,000,000 global market capitalization requirement upon completion of the offering (or distribution). For all other companies, market capitalization valuation will be determined over a six-month average.

[Or

(III) For companies with not less than $1 billion in total worldwide market capitalization and with not less than $100 million revenues in the recent fiscal year, there are no additional financial requirements. For such companies listing in connection with an IPO, the market capitalization valuation must be demonstrated by a written representation from the underwriter (or, in the case of a spin-off, by a written representation from the parent company's investment banker, other financial advisor or transfer agent) of the total market capitalization of the company upon completion of the offering (or distribution). For all other such companies, the market capitalization valuation will be determined over a six-month average.]

Or

III. Affiliated Company Test

(1) at least $500,000,000 in global market capitalization;

(2) at least 12 months of operating history (although a company is not required to have been a separate corporate entity for such period); and

(3) the company's parent or affiliated company is a listed company in good standing (as evidenced by written representation from the company or its financial advisor excluding that portion of the balance sheet attributable to the new entity); and

(4) the company's parent or affiliated company retains control of the entity or is under common control with the entity.

''Control'' for purposes of the Affiliated Company Test will mean having the ability to exercise significant influence over the operating and financial policies of the listing company, and will be presumed to exist where the parent or affiliated company holds 20% or more of the listing company's voting stock directly or indirectly. Other indicia that may be taken into account when determining whether control exists include board representation, participation in policy making processes, material intercompany transactions, interchange of managerial personnel, and technological dependency. The Affiliated Company Test is taken from and intended to be consistent with generally accepted accounting principles regarding use of the equity method of accounting for an investment in common stock.

(C) Only adjustments arising from events specifically so indicated in the company's SEC filing(s) as to both categorization and amount can and must be made. Any such adjustments apply only in the year in which the event occurred except with regard to the use of proceeds or acquisitions and dispositions. Any company for which the Exchange relies on adjustments in granting clearance must include all relevant adjusted financial data in its listing application as specified in Para. 702.04, and disclose the use of adjustments by including a statement in a press release (i) that additional information is available upon which the NYSE relied to list the company and is included in the listing application and (ii) that such information is available to the public upon request.

(D) Interested parties should apply the list of adjustments in accordance with any relevant accounting literature, such as that published by the Financial Accounting Standards Board (''FASB''), the Accounting Principles Board (''APB''), the Emerging Issues Task Force (''EITF''), the American Institute of Certified Public Accountants (''AICPA''), and the SEC. Any literature is intended to guide issuers and investors regarding the affected adjustment listed. If successor interpretations (or guidelines) are published with respect to any particular adjustment, the most recent relevant interpretations (or guidelines) should be consulted.

[(IV) Affiliated Company Standard

(1) Market capitalization of $500 million or greater (as evidenced by written representation from the underwriter, company, or its investment advisor);

(2) Minimum of 12 months of operations (although it is not required to have been a separate corporate entity for such period);

(3) Parent or affiliated company is a listed company in good standing (as evidenced by written representation from the company or its financial advisor excluding that portion of the balance sheet attributable to the new entity); and

(4) Parent/affiliated company retains control* of the entity or is under common control * with the entity.

* ''Control'' for these purposes will mean the ability to exercise significant influence over operating and financial policies, and will be presumed to exist when the parent involved holds directly or indirectly 20% or more of the entity's voting stock. Other indicia that may be taken into account for this purpose include board representation, participation in policymaking processes, material intercompany transactions, interchange of managerial personnel, and technological dependency. This test is taken from and intended to be consistent with generally accepted accounting principles regarding use of the equity method of accounting for an investment in common stock.]

* * * * *

802.00 Continued Listing

* * * * *

802.01 Continued Listing Criteria

The Exchange would normally give consideration to delisting a security either a domestic or non-U.S. issuer when:

* * * * *

802.01B Numerical Criteria for Capital or Common Stock

[If] *A*[a] company *that* falls below [any of the following] *the* criteria *applicable to it* [, it] is subject to the procedures outlined in Paras. 802.02 and 802.03[:].

(I) A company that qualified to list under the Earnings Test set out in Para. 102.01C(I) or in Para. 103.01B(I) will be considered to be below compliance standards if:

(i) [A]*a*verage global market capitalization over a consecutive 30 trading-day period is less than [$50,000,000] *$75,000,000* and, *at the same time,* total stockholders' equity is less than [$50,000,000] *$75,000,000* (C); or

(ii) [A]*a*verage global market capitalization over a consecutive 30 trading-day period is less than [$15,000,000; or] *$25,000,000.*

(II) *A company that qualified to list under the Valuation/Revenue with Cash Flow Test set out in Para. 102.01C(II)(a) or Para. 103.01B(II)(a) will be considered to be below compliance standards if:*

(i) Average global market capitalization over a consecutive 30 trading-day period is less than $250,000,000 and, at the same time, total revenues are less than $20,000,000 over the last 12 months (unless the company qualifies as an original listing under one of the other original listing standards) (D) ; or

(ii) Average global market capitalization over a consecutive 30 trading-day period is less than $75,000,000.

[(iii) For companies that qualified for original listing under the ''global market capitalization'' standard] *(III) A company that qualified to list under the Pure Valuation/Revenue Test set out in Para. 102.01C(II)(b) or Para. 103.01B(II)(b) will be considered to be below compliance standards if:*

(i) [A]*a*verage global market capitalization over a consecutive 30 trading-day period is less than [$500,000,000] *$375,000,000* and*, at the same time,* total revenues are less than [$20,000,000] *$15,000,000* over the last 12 months (unless the [resultant entity] *company* qualifies as an original listing under one of the other original listing standards) (D); or

(ii) average global market capitalization over a consecutive 30 trading-day period is less than $100,000,000.

(IV) A company that qualified to list under the Affiliated Company Test set out in Para. 102.01C(III) or Para. 103.01B(III) is not subject to any continued numerical standards unless:

(i) the listed company's parent/affiliated company ceases to control the listed company, or

(ii) the listed company's parent/affiliated company itself falls below the continued listing standards described to the parent/affiliated company.

In such case, the listed company that qualified to list under the Affiliated Company Test will be considered to be below compliance standards at any time that:

(i) average global market capitalization over a consecutive 30 trading-day period is less than $75,000,000 and, at the same time, total stockholders' equity is less than $75,000,000 (C); or

(ii) average global market capitalization over a consecutive 30 trading-day period is less than $25,000,000.

When applying the market capitalization test in any of the above [three] *four* standards, the Exchange will generally look to the total common stock outstanding (excluding treasury shares) as well as any common stock that would be issued upon conversion of another outstanding equity security. The Exchange deems these securities to be reflected in market value to such an extent that the security is a ''substantial equivalent'' of common stock. In this regard, the Exchange will only consider securities (1) publicly traded (or quoted), or (2) convertible into a publicly traded (or quoted) security. For partnerships, the Exchange will analyze the creation of the current capital structure to determine whether it is appropriate to include other publicly traded securities in the calculation.

[Affiliated Companies—Will not be subject to the $50,000,000 average global market capitalization and stockholders' equity test unless the parent/affiliated company no longer controls the entity or such parent/affiliated company itself falls below the continued listing standards described in this section.]

Funds, REITs and Limited Partnerships [-] will be subject to immediate suspension and delisting procedures if *[(1)]* the average market capitalization *of the entity* over 30 consecutive trading days is below [$15,000,000] *$25,000,000* [or (2)]. *In addition,* [in the case of] a Fund [,] *is subject to immediate suspension and delisting if* it ceases to maintain its closed-end status. [, and in the case of a] *A* REIT is *subject to immediate suspension and delisting if*[,] it fails to maintain its REIT status (unless the resultant entity qualifies for an original listing as a corporation).

The Exchange will notify the Fund, REIT or limited partnership if the average market capitalization falls below [$25,000,000] *$35,000,000* and *will* advise the Fund, REIT or limited partnership of the delisting standard. Funds, REITs and limited partnerships are not subject to the procedures outlined in Paras. 802.02 and 802.03.

Bonds [—] *will be subject to immediate suspension and delisting procedures if:*

(i) [T]*t*he aggregate market value or principal amount of publicly-held bonds is less than $1,000,000*, or*

(ii) [T]*t*he issuer is not able to meet its obligations on the listed debt securities.

Bonds are not subject to the procedures outlined in Paras. 802.02 and 802.03.

Preferred Stock, Guaranteed Railroad Stock and Similar Issues[-]*will be subject to immediate suspension and delisting procedures if:*

(i) *the* [A]*a*ggregate market value of publicly-held shares is less than $2,000,000, *or*

(ii) *the number of* [P]*p*ublicly-held shares is less than 100,000.

These types of securities are not subject to the procedures outlined in Paras. 802.02 and 802.03.

(C) *In order* [T]*t*o be considered in conformity with continued listing standards pursuant to Paras. 802.02 and 802.03, a company that is determined to be below *compliance under* this continued listing criterion must do one of the following:

(i) [R]*r*eestablish both its market capitalization and its stockholders' equity to the [$50,000,000] *$75,000,000* level, or

(ii) [A]*a*chieve average global market capitalization over a consecutive 30 trading-day period of at least [$100,000,000] *$150,000,000*, or

(iii) [A]*a*chieve average global market capitalization over a consecutive 30 trading-day period of [$60,000,000] *$90,000,000*, with either (x) stockholders' equity of at least [$40,000,000] *$60,000,000*, or (y) an increase in stockholders' equity of at least [$40,000,000] *$60,000,000* since the company was notified by the Exchange that it was below continued listing standards.

(D) *In order to be deemed in conformity with continued listing standards pursuant to paras. 802.02 and 802.03,* [A]*a* company that is determined to be below *compliance under* this continued listing criterion must *either:*

(i) reestablish both its market capitalization and its revenues *to the applicable amounts* [to be considered in conformity with continued listing standards pursuant to paras. 802.02 and 802.03]*, or*

(i) *qualify as an original listing under any of the original listing standards.*

802.01C Price Criteria for Capital or Common Stock [-]

A Company will be considered to be below compliance standards if the [A]*a*verage closing price of a security is less than $1.00 over a consecutive 30-trading—day period (E).

* * * * *

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 NYSE 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 proposing to introduce a pilot program to amend certain of its minimum numerical standards for the listing and continued listing of equity securities on the New York Stock Exchange (''Pilot Program''). The Pilot Program will begin January 29, 2004, and expire on July 29, 2004.[6]

The Exchange believes that the proposed Pilot Program will strengthen certain aspects of the minimum original and continued listing standards, while modestly easing the market-cap/revenue test to enable the NYSE to list somewhat younger companies that still meet substantial quantitative thresholds over their operating history. The Exchange staff represents that it has monitored the modest number of companies over the last two years that would have met the market-cap/revenue test as proposed and has found that those companies have performed to a standard that is appropriate for inclusion on the NYSE list. The Exchange believes that its standard in this respect, as in all respects, remains far higher than any other U.S. marketplace.

Currently, section 102.01C of the Listed Company Manual provides that a company must meet one of four specified financial standards in order to qualify to have its equity securities listed. The Exchange is proposing to amend three of these four standards. The Exchange is also proposing to amend Section 103.01B(III), which provides a corresponding numerical standard applicable to international companies.

Section 102.01C(I) currently requires that a company demonstrate pre-tax earnings of $6.5 million in aggregate for the last three fiscal years, with either a minimum of (a) $2.5 million in earnings in the most recent fiscal year and $2 million in each of the preceding two years; or (b) $4.5 million in earnings in the most recent fiscal year, with positive amounts in each of the preceding two years. The Exchange is proposing to strengthen this standard and also to simplify it by eliminating the current two-tiered structure. As proposed, the ''Earnings Test'' would require that companies demonstrate pre-tax earnings of $10 million in aggregate for the last three fiscal years. It would also require that the company demonstrate positive results in all three of the years tested with a minimum of $2 million in earnings in each of the preceding two years.

Section 102.01C(II) currently requires that a company demonstrate market capitalization of at least $500 million and revenues of at least $100 million over the most recent 12-month period. Provided that these thresholds are met, a company with operating cash flows of at least $25 million in aggregate for the last three fiscal years with positive amounts in each of the three fiscal years would qualify for listing. Section 102.01C(III) currently requires that companies demonstrate (a) market capitalization of at least $1 billion; and (b) revenues of at least $100 million in the most recent fiscal year. Because both of these tests are valuation and revenue-based, the Exchange proposes to consolidate them into one test with two alternative subsections. One of these sections of the proposed ''Valuation/Revenue Test'' would incorporate the existing requirements of Section 102.01C(II) as the ''Valuation/Revenue with Cash Flow Test,'' with no change to the current thresholds.[7] The other section would incorporate the existing requirements of Section 102.01C(III) as the ''Pure Valuation/Revenue Test.'' In addition, the Exchange proposes to amend the current thresholds of Section 102.01C(III) to require that companies demonstrate (a) market capitalization of at least $750 million; and (b) revenues of at least $75 million during the most recent fiscal year.[8] The Exchange staff states that it is modestly lowering this listing standard, because it has monitored the number of companies over the last two years that would have met the Pure Valuation/Revenue test as NYSE proposes to modify it and has found that those companies have performed to a standard that is appropriate for inclusion on the NYSE list.

The Exchange is also proposing to make corresponding restructuring changes to Section 103.01B, which sets out minimum numerical standards for non-U.S. companies. The Exchange also proposes to amend the numeric thresholds of Section 103.01B(III) in

[6] The NYSE has represented that it will notify listed companies of the Pilot Program by e-mail and by posting on its Web site. Telephone conversation between Noreen M. Culhane, Executive Vice President, Corporate Listings and Compliance, NYSE, Annemarie Tierney, Assistant General Counsel, NYSE, Florence Harmon, Senior Special Counsel, Division, Commission, and Susie Cho, Special Counsel, Division, Commission, on January 21, 2004.

[7] The NYSE has represented that in evaluating companies for listing pursuant to existing Section 102.01C(II), it has always analyzed a company's ''global'' market capitalization. Thus, the standards for the proposed ''Valuation/Revenue with Cash Flow Test'' clarify current NYSE practice. Telephone conversation between Noreen M. Culhane, Executive Vice President, Corporate Listings and Compliance, NYSE, Annemarie Tierney, Assistant General Counsel, NYSE, Florence Harmon, Senior Special Counsel, Division, Commission, and Susie Cho, Special Counsel, Division, Commission, on January 21, 2004.

[8] The current thresholds require: (a) A global market capitalization of $1 billion; and (b) revenues of at least $100 million. Section 102.01C(III) of the Manual.

accordance with the amendments proposed for Section 102.01C(III).

In addition, the Exchange is proposing to restructure and amend the numerical continued listing standards set out in Section 802.01B. Section 802.01B currently applies to companies that fall below any of the following criteria: (i) Average global market capitalization over a consecutive 30 trading-day period is less than $50,000,000 and total stockholders' equity is less than $50,000,000; (ii) average global market capitalization over a consecutive 30 trading-day period is less than $15,000,000; or (iii) for companies that qualified for original listing under the ''global market capitalization'' standard: (a) Average global market capitalization over a consecutive 30 trading-day period is less than $500,000,000 and total revenues are less than $20,000,000 over the last 12 months (unless the resultant entity qualifies as an original listing under one of the other original listing standards); or (b) average global market capitalization over a consecutive 30 trading-day period is less than $100,000,000.

The Exchange proposes to amend these thresholds and to specifically relate the continued listing standards of Section 802.01B to the original listing standards of Section 102.01C used to qualify a company for listing. Companies that are listed under the proposed ''Earnings Test'' will be considered to be below compliance if (a) average global market capitalization over a consecutive 30 trading-day period is less than $75,000,000 and, at the same time, total stockholders' equity is less than $75,000,000; or (b) average global market capitalization over a consecutive 30 trading-day period is less than $25,000,000. These levels have been increased in the proposal to reflect marketplace expectations of those companies deemed suitable for continued listing.

A company that qualifies to list under the proposed ''Valuation/Revenue with Cash Flow Test'' will be considered to be below compliance standards if (a) average global market capitalization over a consecutive 30 trading-day period is less than $250,000,000 and, at the same time, total revenues are less than $20,000,000 over the last 12 months (unless the company qualifies as an original listing under one of the other original listing standards); or (b) average global market capitalization over a consecutive 30 trading-day period is less than $75,000,000.[9]

A company that qualifies to list under the proposed ''Pure Valuation/Revenue Test'' will be considered to be below compliance standards if (a) average global market capitalization over a consecutive 30 trading-day period is less than $375,000,000 and, at the same time, total revenues are less than $15,000,000 over the last 12 months (unless the resultant entity qualifies as an original listing under one of the other original listing standards); or (b) average global market capitalization over a consecutive 30 trading-day period is less than $100,000,000.[10]

The Exchange also proposes to clarify that it is the continued listing standards applicable to the proposed Earnings Test that will apply to companies that listed under the Affiliated Company Standard in circumstances where such listed company's parent or affiliated company no longer controls the listed company or such listed company's parent or affiliated company falls below the continued listing standards applicable to the parent or affiliated company. In addition, the Exchange proposes to increase the continued listing criteria for funds, REITs and limited partnerships from $15 million to $25 million with a corresponding increase to the notification threshold from $25 million to $35 million.

Companies that fall below the foregoing minimum standards may be permitted a period of time to return to compliance, in accordance with the procedures specified in Sections 802.02 and 802.03 of the Manual. As a general matter, companies must reestablish the level of market capitalization (and, if applicable, shareholder's equity) specified in the continued listing standard that the company fell below. However, with respect to the current requirements of Section 802.01B(I) that a company reestablish both its market capitalization and its stockholders' equity to the $50,000,000 level, footnote (C) to Section 802.01B provides several alternatives. Currently, the footnote specifies that to return to conformity, a company must do one of the following: (a) Reestablish both its market capitalization and its stockholders' equity to the $50,000,000 level; (b) achieve average global market capitalization over a consecutive 30 trading-day period of at least $100,000,000; or (c) achieve average global market capitalization over a consecutive 30 trading-day period of $60,000,000, with either (x) stockholders' equity of at least $40,000,000, or (y) an increase in stockholders' equity of at least $40,000,000 since the company was notified by the Exchange that it was below continued listing standards. The Exchange proposes to increase these thresholds to require that a company (a) reestablish both its market capitalization and its stockholders' equity to the $75,000,000 level; (b) achieve average global market capitalization over a consecutive 30 trading-day period of at least $150,000,000; or (c) achieve average global market capitalization over a consecutive 30 trading-day period of $90,000,000, with either (x) stockholders' equity of at least $60,000,000, or (y) an increase in stockholders' equity of at least $60,000,000 since the company was notified by the Exchange that it was below continued listing standards.

The Exchange has also considered how to transition the above-described changes to the continued listing standards. Sections 802.02 and 802.03 provide that, with respect to a company which is determined to be below continued listing standards a second time within twelve months of successful recovery from previous non-compliance, the Exchange will examine the relationship between the two incidents of falling below continued listing standards and re-evaluate the company's method of financial recovery from the first incident. The Exchange may then take appropriate action, which, depending upon the circumstances, may include truncating the normal procedures for reestablishing conformity with the continued listing standards or immediately initiating suspension and delisting procedures. For those companies that are within such a twelve-month period and would be deemed to be below continued listing standards as a direct result of the approval of the amendments proposed in this filing, the Exchange does not intend to truncate the normal procedures, or immediately initiate suspension and delisting, solely on the basis of the proposed increase to the current continued listing standards.

For those companies that are currently below the continued listing standards, the Exchange intends to allow them to complete their applicable follow up procedures and plan for return to compliance as provided in sections 802.02 and 802.03 (''Plan''). If, at the end thereof, such companies are compliant with the continued listing standards for which they were originally notified, but below the increased requirements set forth above, the

[9] Previously, NYSE required $500,000,000 average global market capitalization over a consecutive 30 trading-day period and total revenues of $20,000,000; or $100,000,000 average global market capitalization over a 30 trading-day period. Section 802.01B(iii) of the Manual.

[10] *Id.*

Exchange will grant them an opportunity to present an additional business plan advising the Exchange of definitive action the company has taken, or is taking, that would bring the company into conformity with the increased requirements within a further 12 months.[11] In addition, if a company completes its currently applicable follow up procedures and Plan and is not compliant at that time with the continued listing standards for which they were originally notified, but is above the increased requirements set forth above, the Exchange will consider that company to be in conformity with the continued listing standards.

Finally, the Exchange is proposing additional minor technical changes to Sections 102.02C, 103.01B, 802.01B and 802.01C of the Manual.

2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under section 6(b)(5) of the Act[12] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change, 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–NYSE–2003–43. This file number should be included on the subject line if e-mail is used. To help the Commission 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 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 be submitted by February 26, 2004.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[13] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[14] which requires that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national securities system, and protect investors and the public interest.

The amendments to section 102.01C(I), the ''Earnings Test,'' would require that companies demonstrate pre-tax earnings of $10 million in aggregate for the last three fiscal years. The proposed ''Earnings Test'' would also require that the company demonstrate positive results in all three of the years tested with a minimum of $2 million in earnings in each of the preceding two years. The Commission believes that these amendments are consistent with the Exchange Act.

The amendments to the current thresholds of section 102.01C(III) would require, in order to qualify for listing under the ''Pure Valuation/Revenue Test,'' that companies demonstrate (a) market capitalization of at least $750 million; and (b) revenues of at least $75 million during the most recent fiscal year. The Commission believes that it is reasonable for the Exchange, based upon its experience, to determine that the companies that meet this proposed standard would be appropriate for inclusion on the NYSE list. The Commission notes that even with the proposed changes, the NYSE's listing standard still remains substantially higher than comparable listing standards of other marketplaces.[15]

In addition, the Commission believes that the amendments to the numerical continued listing standards in Section 802.01B should simplify and clarify the continued listing standards, by relating the continued listing standards to the original listing standards set forth in section 102.01C. The Commission believes that it is reasonable for the Exchange, based upon its experience, to determine that the proposed categories of listing standards reflect marketplace expectations of those companies deemed suitable for continued listing. The Commission notes that, in general, the continued listing standards reflect the proportional adjustments in the initial listing standards.

Finally, the Exchange has explained how it intends to transition the proposed amendments to the continued listing standards. For those companies that are currently within a twelve-month period following their recovery from previous non-compliance (pursuant to a Plan) advising the Exchange of action the company has taken, or is taking that would bring it into conformity with continued listing standards with 18 months), and would fall below continued listing standards as a direct result of the approval of the proposal, the Exchange does not intend to truncate the normal procedures or immediately initiate suspension and delisting, solely on the basis of the proposed increase to the current continued listing standards.

The Exchange intends to allow companies that are currently below the continued listing standards to complete their applicable follow-up procedures and Plan for return to compliance, as

[11] As of January 20, 2004, there are 10 companies operating pursuant to a NYSE approved business plan. These plans expire at various times throughout the balance of 2004. Under the proposed transition period, these companies could remain listed up to maximum of 22 months from the approval date of this filing, subject to ongoing monitoring and review. Telephone conversation between Annemarie Tierney, Assistant General Counsel, NYSE, Glenn Tyranski, Vice President, Financial Compliance, NYSE, and Susie Cho, Special Counsel, Division, Commission, on January 20, 2004.

[12] 15 U.S.C. 78f(b)(5).

[13] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] For example, one listing standard on Amex requires, among other things, $75 million market capitalization, or $75 million in total assets and revenues (in the last year or in 2 of the last 3 years). *See Amex Company Guide,* Section 101(d).

provided in sections 802.02 and 802.03. If, at the end thereof, such companies are compliant with the continued listing standards for which they were originally notified, but below the increased requirements proposed herein, the Exchange would grant them an opportunity to present an additional business plan advising the Exchange of definitive action the company has taken, or is taking, that would bring the company into conformity with the increased requirements within a further 12 months. In addition, if a company completes its currently applicable follow-up procedures and Plan and is not compliant at that time with the continued listing standards for which it was originally notified, but is above the increased requirements set forth above, the Exchange would consider that company to be in conformity with the continued listing standards.

The Commission believes that the Exchange's transition policies are reasonable and consistent with the Act. The Commission notes that these policies should impact few companies.[16] The Commission, however, expects that the Exchange will follow closely the progress of companies that are currently in their Plan period or subsequent 12-month period, to ensure that these companies will attain the proposed continued listing standards. The Commission notes that, pursuant to section 802.02, the Exchange has the discretion to suspend trading in any security and apply to the Commission for delisting, when the Exchange deems it necessary for the protection of investors.

The NYSE has requested that the Commission find good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission believes that it is reasonable to grant accelerated approval to allow for the efficient administration of the Exchange's original and continued listing programs as promptly as possible. The Commission notes that the listing standard of the NYSE that is being modestly lowered, as proposed, would remain substantially higher than other comparable listing standards of other marketplaces.[17] In addition, the Commission notes that the amended original and continued listing standards will be in effect only as a pilot program for a six-month period. Accordingly, the Commission finds good cause, pursuant to section 19(b)(2) of the Act,[18] for accelerated approval of the proposed rule change, as amended.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[19] that the proposed rule change (SR–NYSE–2003–43), as amended, is hereby approved on an accelerated basis, as a six-month pilot, scheduled to expire on July 29, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–2335 Filed 2–4–04; 8:45 am]

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[16] *See supra* n.11.

[17] *See supra* note 15.

[18] 15 U.S.C. 78s(b)(2).

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49138; File No. SR–PCX–2003–36]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to the Composition of Its Audit Committee

January 28, 2004.

On July 14, 2003, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change that would amend its rule regarding the PCX's Audit Committee. On August 21, 2003, PCX submitted by facsimile Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on September 29, 2003.[4] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[5] and, in particular, the requirements of Section 6(b)(5) of the Act.[6] Section 6(b)(5) requires, among other things, that the rules of the exchange be designed to prevent fraudulent and manipulative acts, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission notes that the proposed rule change specifies that all members of PCX's Audit Committee must be Public Governors. The PCX Constitution requires ''Public Governors'' to be representatives of the public and not a broker or dealer or affiliated with a broker or dealer.[7] Previously, Audit Committee members were not required to be Public Governors. Furthermore, the proposed rule change requires that at least one member of the Audit Committee have accounting or financial management expertise, as the Board of Governors interprets such qualification in its business judgment. The Commission believes that the proposed change should help improve the Exchange's governance structure by requiring that all members of the Audit Committee be Public Governors and that at least one of those members have accounting or financial management expertise. In this way, the independence and effectiveness of the Audit Committee should be enhanced. Therefore, the Commission finds that the proposed rule change is consistent with the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–PCX–2003–36), as amended by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–2333 Filed 2–4–04; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Steven B. Maitlin, Senior Counsel, Regulatory Policy, PCX, to Leah Mesfin, Attorney, Division of Market Regulation, Commission, dated August 21, 2003 (''Amendment No. 1''). In Amendment No. 1, the Exchange replaced the term ''independent Governors'' in the proposed rule text with ''Public Governors.''

[4] Securities Exchange Act Release No. 48500 (September 17, 2003), 68 FR 56030 (September 29, 2003).

[5] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

[7] *See* PCX Constitution, Article II, Section 1(a).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49140; File No. SR–PCX–2003–72]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Exchange Fees and Charges

January 28, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 2, 2004, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which the PCX has prepared. The PCX has designated this proposal as one establishing or changing a due, fee or other charge imposed by the self-regulatory organization under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the rule effective upon Commission receipt of this filing. 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 PCX proposes to amend the Trade-Related Charges portion of its Schedule of Fees and Charges (''Schedule'') in order to delete the fee relating to its Volume Discount Program.

The text of the proposed rule change is below. Proposed deletions are in [brackets].

* * * * *

Schedule of Fees and Charges for Exchange Services

PCX Options: Trade-Related Charges

Transactions

Customer	$0.00 per contract side
Firm	$0.10 per contract side for customer facilitation
Broker/Dealer	$0.21 per contract side

Market share tiers	Marg rate	Market share tiers	Marg rate
0.00% to 11.00%	$0.21	0% to 15%	$0.21
11.00% to 20.00%	0.11	15% to 25%	0.15
20% to 100.00%		25% to 100%	0.05

Market Maker Marginal Transaction Rates on Top 120 Issues

Market Maker Marginal Transaction Rates on Non-Top 120 Issues. Singly listed issues will be assessed a flat $0.21 Market Maker transaction charge.

[VOLUME DISCOUNT PROGRAM

PCX Quarterly Average Daily Contract Volume	Per Contract Reduction in Market Maker Transaction Charge For Following Quarter
449,000 or lower	No reduction
450,000 to 474,999	$0.01
475,000 to 499,999	$0.02
500,000 to 524,999	$0.03
525,000 or higher	$0.04]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend the Trade-Related Charges portion of its Schedule in order to delete the fee relating to its Volume Discount Program. On December 16, 2003, the Exchange submitted a filing with the Commission to implement the new Incentive Pricing Program for Market Maker transaction charges.[5] As part of its ongoing effort to secure existing volumes and attract higher levels of liquidity, the PCX proposed a three-tiered rate schedule that would lower transaction charges for Market Makers (including Lead Market Makers) as the Exchange attains higher levels of market share on individual issues. The Incentive Pricing Program became effective upon filing. As a result of the application of the new Incentive Pricing Program, the Exchange no longer has need for the Volume Discount Program and proposes to eliminate it from the Schedule.

2. Statutory Basis

The Exchange believes that this proposal to amend its schedule of dues, fees and charges would be an equitable allocation of reasonable fees among PCX members, and that the proposal is consistent with Section 6(b) of the Act[6] and furthers the objectives of Section 6(b)(4) of the Act.[7]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Act Release No. 48976 (December 23, 2003), 68 F.R. 75701 (December 31, 2003) (SR–PCX–2003–68).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

PCX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

PCX neither solicited nor received written comments on this proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and Rule 19b–4(f)(2)[9] thereunder. Accordingly, the proposal has taken effect upon filing with the Commission. At any time within 60 days after the filing of the proposed rule change, 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. 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–PCX–2003–72. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hard copy 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of PCX. All submissions should refer to File No. SR–PCX–2003–72 and should be submitted by February 26, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–2334 Filed 2–4–04; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Supplemental Security Income (SSI) Demonstration: Work Incentives for Participants in the Florida Freedom Initiative

AGENCY: Social Security Administration (SSA).

ACTION: Notice.

SUMMARY: The Commissioner of Social Security (the Commissioner) will exercise her authority under section 1110(b) of the Social Security Act to conduct a demonstration and is publishing this notice in accordance with regulations at 20 CFR 416.250(e).

The demonstration, called Work Incentives for Participants in the Florida Freedom Initiative, will test whether the modification of certain SSI program rules fosters greater self-sufficiency among SSI beneficiaries participating in the Florida Freedom Initiative. The Florida Freedom Initiative is a demonstration being undertaken by the Florida Department of Children and Families through a Systems Change grant from the Department of Health and Human Services (DHHS), Centers for Medicare & Medicaid Services (CMS).

EFFECTIVE DATES: It is anticipated that the Florida Freedom Initiative will begin no later than March 1, 2004. According to the demonstration plan, beneficiaries may participate throughout the period of the demonstration for up to three years. Thus, the anticipated ending date for participation will be no later than February 28, 2007. In some cases, however, the modified SSI program rules that the Commissioner is creating relative to individual development accounts and plans for achieving self-support (see below) may continue to apply for a limited time after an individual's participation in the Florida Freedom Initiative ends.

FOR FURTHER INFORMATION CONTACT: Stephen Fear by e-mail at *steve.fear@ssa.gov,* by telephone at (410) 966–0265, or by mail at Social Security Administration, Office of Program Development and Research, 3516 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235.

SUPPLEMENTARY INFORMATION:

Florida Freedom Initiative and Consumer Directed Care Plus Demonstrations

The Florida Freedom Initiative will attempt to build on the success of an ongoing ''Cash and Counseling'' demonstration, Consumer Directed Care Plus, that the State has been conducting with partners that include: CMS, the Office of the Assistant Secretary for Planning and Evaluation at DHHS, the National Program Office at the University of Maryland Center on Aging, the Robert Wood Johnson Foundation, the National Council on Aging, and Mathematica Policy Research (as the evaluator).

For Consumer Directed Care Plus, the Secretary of DHHS (the Secretary) exercised his authority under section 1115 of the Act to waive certain Medicaid program rules. The Medicaid waivers permit Medicaid beneficiaries using personal-attendant, supported-employment, or certain other services, to receive a cash allowance in lieu of those services, along with information support that enables them to select and purchase the specific services they need from providers of their choosing.

The Commissioner, to enable SSI beneficiaries to participate in the Consumer Directed Care Plus demonstration and to test the effect of modified SSI program rules in the demonstration's Medicaid-waiver environment, waived SSI rules regarding how long an individual can retain certain cash received for medical and social services before they count toward the SSI resources limit. The Commissioner also waived SSI rules that would require interest earned on such retained funds to count as income. See 63 FR 58802 (November 2, 1998).

For the Florida Freedom Initiative, the Secretary will expand the types of services for which Medicaid beneficiaries can receive a cash allowance. The demonstration also will incorporate, to a greater extent than was possible in Consumer Directed Care Plus, the principles of self-determination, one of which emphasizes the generation of personal income through work, often through the development of a microenterprise. To aid in the removal of systemic barriers to work that were identified in the course of the Consumer Directed Care Plus demonstration, the Commissioner

will provide the following waivers of SSI program requirements for the Florida Freedom Initiative.

1. Exclusion From Resources of Medicaid Payments Being Saved for the Purchase of Medical or Social Services and Exclusion From Income and Resources of Interest Earned by Such Savings

Cash from a government source to pay for medical or social services does not count as income to an SSI beneficiary when received. However, if the cash is not reimbursement for expenses already paid, and the beneficiary retains it, current rules require counting it as a resource beginning with the second calendar month after the month in which is received. *See* regulations at 20 CFR 416.1103(a) and (b) and 20 CFR 416.1201(a)(3).

The Commissioner is waiving this requirement in order to permit beneficiaries to save for future purchases of medical and social services as long as they continue to participate in the Florida Freedom Initiative and the funds are retained in a form that is separately identifiable from other assets. Under current rules, any interest earned by such savings would count as income in the month it is earned and as a resource thereafter. The Commissioner also is waiving these requirements. The Commissioner provided the same waivers for the Consumer Directed Care Plus demonstration project.

Cash received for medical or social services during participation in the demonstration and retained after participation in the demonstration ends will be excluded from resources for the first full calendar month after participation ends and will be subject to regular SSI resources rules beginning with the second full calendar month after participation ends. For example, if participation in the demonstration were to end on February 28, 2007, cash received for medical or social services prior to that date, if retained, would be subject to regular SSI resources rules beginning April 2007. Interest earned by such cash once it becomes subject to regular SSI resources rules is subject to regular SSI income rules.

2. Expansion of Exclusions Related to Individual Development Accounts (IDA)

An IDA is a trust or custodial account created to help low-income individuals and families save for certain expenses. Except for certain emergencies, IDA funds can be used only for going to college, buying a first home, or starting a business. The account holder makes deposits to an IDA from his or her earned income. Each dollar the account holder deposits is matched at rates varying from one to eight dollars, usually depending on the availability of funding.

Individual development accounts are used in two Federal programs: temporary assistance to needy families (TANF) and an Assets for Independence Act (AFIA) demonstration program. In these programs, matching contributions are drawn from a combination of TANF funds or AFIA grant monies and entities such as foundations and Community Development Credit Unions. Federal matching dollars are limited to $2,000 per individual or $4,000 per household over the five-year life of the IDA demonstration program.

Section 415 of the AFIA (title IV of Pub. L. 105–285 as amended by section 610 of Pub. L. 106–55, App. A) and section 404(h)(4) of the Social Security Act provide that funds in an AFIA or TANF IDA are to be disregarded in determinations of eligibility for, or the amount of, a Federal benefit that takes into account financial circumstances. SSA thus excludes these IDAs when it determines whether someone's resources exceed the SSI limit. It also excludes matching contributions when it determines countable income, and deducts the beneficiary's own deposits from countable income. As a result, SSI benefits allow the beneficiary to meet living expenses while saving for the specified qualifying purposes.

Numerous non-federally supported IDA or ''IDA-like'' programs have emerged nationwide. These other programs usually adopt AFIA IDA program rules, but permit an individual to save for one or more purposes, such as transportation or assistive technology, in addition to the three mentioned above. Under current SSI program rules, the exclusions that apply to federally supported IDAs do not extend to these programs. For the Florida Freedom Initiative, the Commissioner will extend the exclusions to these other programs, subject to her approval of their rules.

To ensure that participants are able to benefit fully from the savings opportunity afforded by an IDA, the exclusions related to IDAs, other than those accounts involving AFIA grant monies or Federal TANF dollars, will continue to apply until the individual's participation in the IDA program has ended, in accordance with the IDA program's rules. It thus is possible that such IDA exclusions will continue for a limited time after participation in the Florida Freedom Initiative ends.

3. Increased Exclusion for Earned Income

Social Security Act section 1612(b)(3) and 20 CFR 416.1112 provide for excluding the first $65 a month, plus half the remainder of earned income not previously excluded by other provisions. To further encourage work and earnings, SSA will exclude the first $280 of earned income, and half of any earnings over that amount, for SSI beneficiaries participating in the Florida Freedom Initiative.

The exclusion of the first $280 (instead of $65) of an individual's earnings each month ends with the month in which his or her participation in the Florida Freedom Initiative demonstration project ends.

4. Modified Goal for a Plan for Achieving Self-Support (PASS)

Under current rules, although education can be part of a PASS, the PASS must in all cases specify an occupational goal (Social Security Act section 1633 and 20 CFR 416.1181). For the Florida Freedom Initiative, SSA will approve an otherwise satisfactory PASS that specifies postsecondary education as its goal, as long as the PASS includes a step for specifying a work goal at least six months prior to completion of course requirements.

A PASS, with a goal of postsecondary education, should take into account the time it ordinarily would take the individual to complete the coursework involved. Approval of such a PASS will not require that the coursework be completed before the Florida Freedom Initiative ends. A PASS approved as part of the Work Incentives for Participants in the Florida Freedom Initiative demonstration subsequently will be treated like any other PASS.

5. Suspension of Continuing Disability Reviews (CDR)

Section 221(i) of the Act requires that SSA periodically review medical and/or other evidence to determine whether an individual continues to meet the requirements for benefits, and section 1633(c.) contemplates that SSA will undertake similar reviews with respect to SSI recipients. Our regulations at 20 CFR 416.989, 416.989(a) and 416.990 explain when we will conduct these CDRs for SSI recipients. If the evidence shows that the individual no longer meets these requirements, benefits stop. The Commissioner will suspend CDRs for Florida Freedom Initiative participants while they are participating in the project.

Objectives of the Work Incentives for Participants in the Florida Freedom Initiative Demonstration

Through Work Incentives for Participants in the Florida Freedom Initiative, the Commissioner will:

- Support the efforts of CMS, the State of Florida, and other partners to conduct the Florida Freedom Initiative;
- Further test the appropriateness of current SSI rules requiring that cash received for the purchase of medical or social services be counted as a resource if retained for more than one calendar month after the month of receipt;
- Empower Florida Freedom Initiative participants to use their earnings to save toward purchasing a home, capitalizing a small business or micro-enterprise, attending college, or other approved purpose; *e.g.*, the purchase of assistive technology or transportation;
- Permit a determination of whether the combination of altered policies and procedures used for the Florida Freedom Initiative can generate SSI and/or Medicaid program savings by more effectively enabling participants to maximize their self-sufficiency.

SSA will work with CMS and the State of Florida to develop appropriate measurements for these objectives and to make arrangements for necessary data collection.

Additional Background: Cash Received for Medical or Social Services

Section 1612(a) of the Act defines income for purposes of the SSI program, while section 1612(b) specifies exclusions from income. As explained in regulations at 20 CFR 416.1102, income includes anything an individual receives in cash or in kind that can be used to meet food, clothing, and shelter needs. Regulations at 20 CFR 416.1103(a)(3) and (b)(1) explain that assistance provided in cash or in kind under a Federal, State, or local government program, whose purpose is to provide medical care or services or social services, including vocational rehabilitation, is not income.

Section 1613 of the Act specifies exclusions from resources for purposes of the SSI program. Regulations at 20 CFR 416.1201(a) define resources as cash, or other liquid assets, or any real or personal property, that an individual (or spouse) owns and could convert to cash to be used for support and maintenance. Regulations at 20 CFR 416.1207(d) explain that items received in cash or in kind during a month are evaluated first under the rules for counting income. If they are retained until the first moment of the following month, they then are evaluated under the rules for counting resources.

Regulations at 20 CFR 416.1201(a)(3) explain that, except for reimbursement of expenses already paid, cash an individual receives for medical or social services, that is neither income under 20 CFR 416.1103(a) or (b) nor a retroactive cash payment excluded from deeming under 20 CFR 416.1161(a)(16), is not a resource for the calendar month following the month of its receipt if it is separately identifiable from other resources. If retained after that time, it becomes a countable resource.

SSI regulations recognize that cash payments made specifically to enable people to pay for medical or social services are not income for SSI purposes because they are assumed to not be available for support and maintenance. Recognizing that the recipient is not always able to use the cash for payment for medical or social services in the month of receipt, SSI regulations provide for not counting as resources any cash received to pay for medical and social services which is retained one full calendar month following the month of receipt, so long as it is separately identifiable from other resources. The rule permitting not counting such cash as resources does not encompass cash received as reimbursement for medical or social service bills the individual has already paid. The rule which permits not counting cash as resources, if retained into the month following the month of receipt, is consistent with the purpose of the SSI program, which is to meet the current needs of beneficiaries for food, clothing and shelter.

Additional Background: Plans for Achieving Self-Support

Sections 1612(b)(4) and 1613(a)(4) of the Act provide for excluding such income and resources of an individual, if he or she has a plan for achieving self-support approved by the Commissioner, as may be necessary for the fulfillment of such plan. A plan for achieving self-support, or PASS, is a self-directed plan in which individuals identify:

- The job they want or business they want to start;
- what they need in order to achieve their goal, such as training or education, transportation, assistive technology or business inventory, and how much it will cost; and
- the income or assets they will use for these expenses, such as savings, wages from an existing job, or Social Security Disability Insurance (SSDI) benefits.

Several ''ownership'' factors make the PASS program a particularly effective work incentive. There is a personal investment in the attainment of plan goals because the individuals themselves create those goals and use their own income or assets to pay for expenses, although SSI benefits replace those funds. Although the plan must be realistic, and expenses must be reasonable, the individuals themselves decide what goods, equipment, services, training, and education they will purchase, and from whom, in order to reach their goals.

A PASS can help an individual pay for expenses such as:

- PASS preparation fees, which can include the cost of vocational evaluations and similar assessments;
- education or training, including tuition, books, supplies, and associated fees and costs, such as fees for tutoring, testing, and counseling;
- meals and lodging while temporarily absent from one's permanent residence to attend educational, training, employment, trade, or business activities, if there is also a cost associated with maintaining the permanent residence;
- transportation, including the lease, rental, or purchase of a vehicle and associated costs for fuel, insurance, maintenance, registration, taxes, etc., modifications to a vehicle, the hire of private or commercial carriers, and the hire of someone to drive one's vehicle;
- business start-up costs, including equipment, supplies, operating capital, and inventory required to establish and carry on a trade or business;
- assistive technology, including assistive technology mobility devices (power chairs and scooters) and/or upgrades;
- modifications to buildings for operational or access purposes for persons with disabilities;
- childcare;
- attendant care;
- basic living skills training;
- dues and subscription costs for publications for academic or professional purposes;
- equipment and tools, including safety equipment, whether specific to the individual's condition or designed for use by someone who does not have a disability;
- job coaching/counseling services;
- uniforms, specialized clothing, safety equipment, and appropriate attire, such as suits or dresses needed for job interviews or to begin working in an office or professional setting; and
- job search or relocation expenses.

If approved, a PASS can help SSI beneficiaries pay for these and other expenses in a number of ways:

- First, SSA excludes income and resources that will be used for plan

expenses when it determines SSI eligibility and payment amount. In some cases, this permits SSI eligibility where it would otherwise not exist.

• Eligibility for SSI generally results in eligibility for Medicaid, as well. Medicaid can cover the cost of medicines and other items not presently covered by Medicare.

• If an individual is eligible for SSI, a PASS may permit a higher benefit.

• Income excluded under a PASS also is excluded from consideration in determinations of eligibility for Food Stamps and Federal housing assistance.

An important way in which a PASS can help pay for a major purchase is by its use to obtain and pay off a loan. People with disabilities who have little income or credit rarely have the option to save for a major purchase or obtain financing. Approval of a PASS that has loan payments built into it has made it possible for some individuals to obtain financing for major purchases. This can have the added advantage of enabling someone to establish or rebuild credit, which can be critical to running a business.

Who May Participate in the Work Incentives for Participants in the Florida Freedom Initiative Demonstration?

To take part in the Work Incentives for Participants in the Florida Freedom Initiative, an individual must be receiving SSI benefits based on disability or blindness and be enrolled in the Florida Freedom Initiative demonstration.

Consent Required

The consent of an SSI beneficiary to participate in this demonstration project is required under section 1110(b)(2)(b) of the Act and 20 CFR 416.250(d). The State of Florida will obtain written consent from every participant who is an SSI beneficiary. The consent will ensure that participation is voluntary and participants will be informed that they can stop participating at any time.

New or Additional Program Costs

We anticipate that the Work Incentives for Participants in the Florida Freedom Initiative demonstration will involve no, or minimal, new or additional program costs to the Federal government under title XVI of the Act or to the State of Florida under section 1616 of the Act. If the Commissioner decided not to exercise her authority under section 1110(b) of the Act to provide the waivers described in this announcement, we believe that few if any SSI beneficiaries would participate in the Florida Freedom Initiative since to do so could result in a reduction or loss of SSI benefits. Continued SSI eligibility for beneficiaries who choose to participate in the demonstration project is not a new or additional cost related to the Commissioner's demonstration project.

Statutory and Regulatory Provisions Waived: The Commissioner waives for the duration of an individual's participation in the Cash and Counseling demonstration project certain SSI resources counting rules where application of those rules would otherwise affect the eligibility of an individual for SSI. The specific statutory and regulatory provisions waived are those described in the preceding section.

Authority: Section 1110(b) of the Social Security Act.

Dated: January 30, 2004.

Jo Anne B. Barnhart,

Commissioner of Social Security.

[FR Doc. 04–2561 Filed 2–4–04; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

Bureau of Educational and Cultural Affairs

[Public Notice: 4613]

30-Day Notice of Proposed Information Collection: Recordkeeping, Reporting and Data Collection Requirements Under 22 CFR Part 62—the Exchange Visitor Program, Student and Exchange Visitor Information System (SEVIS); OMB #1405–0147

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Revision and Extension of a Currently Approved Collection.

Originating Office: Bureau of Educational and Cultural Affairs.

Title of Information Collection: Recordkeeping, Reporting, and Data Collection Requirements Under 22 CFR 62—the Exchange Visitor Program, Student and Exchange Visitor Information System (SEVIS).

Frequency: Continuous.

Form Number: N/A.

Respondents: Designated program sponsors, potential sponsors, exchange visitors, foreign governments, and U.S. medical schools.

Estimated Number of Respondents: 190,205 respondents.

Average Hours Per Response: 5.5 hours. (The time burden per response ranges from 5 minutes to 20 hours depending on the requirement.)

Total Estimated Burden: 11,050,170 hours.

Public comments are being solicited to permit the agency to:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

• Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Mr. Stanley Colvin, 301 4th Street, SW., Room 734, Washington, DC 20547, or at (202) 401–9810. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on (202) 395–7860.

Dated: August 8, 2003.

Patricia S. Harrison,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 04–2489 Filed 2–4–04; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 4615]

Culturally Significant Objects Imported for Exhibition; Determinations: ''Verrocchio's David Restored: A Renaissance Bronze From the National Museum of Bargello, Florence''

AGENCY: Department of State.

ACTION: Notice; correction.

SUMMARY: On October 16, 2003, notice was published on page 59673 of the

Federal Register (volume 68, number 200) by the Department of State 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, and Delegation of Authority No. 257 of April 15, 2003 (68 FR 19875). The referenced notice is corrected to include an additional object in the exhibition ''Verrocchio's David Restored: A Renaissance Bronze from the National Museum of Bargello, Florence,'' imported from abroad for temporary exhibition within the United States, which I determine is of cultural significance. The additional object is imported pursuant to a loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit object at the National Gallery of Art, Washington, DC from on or about February 13, 2004, to on or about March 21, 2004, 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 object, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, Department of State (telephone: (202) 619–6981). The address is Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: January 30, 2004.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04–2490 Filed 2–4–04; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4614]

Office of Ocean Affairs; Protection of Sunken Warships, Military Aircraft and Other Sunken Government Property

1. On January 19, 2001, the President stated United States policy on sunken government vessels, aircraft and spacecraft (''State craft'') of the United States and foreign nations. *See* Weekly Compilation of Presidential Documents, vol. 37, no. 3, pages 195–196. The President advised, *inter alia,* ''[t]hose who would engage in unauthorized activities directed at sunken State craft * * * that disturbance or recovery of such craft should not occur without the express permission of the sovereign * * *.'' (The full text is set out at the end of this notice.)

2. The Governments of France, Germany, Japan, Russian Federation, Spain and the United Kingdom have advised the State Department of their policies, as follows:

France: ''In accordance with the 1982 United Nations Convention on the Law of the Sea (among others art. 32 & 236) and Customary Law, every State craft (*e.g.* warship, naval auxiliary and other vessel, aircraft or spacecraft owned or operated by a State) enjoys sovereign immunities, regardless of its location and the period elapsed since it was reduced to wreckage (general principle of non limitation of rights of States).

The primacy of the title of ownership is intangible and inalienable: no intrusive action may be taken regarding a French sunken State craft, without the express consent of the French Republic, unless it has been captured by another State prior to sinking.

But this primacy does not forbid the State to freely renounce, whenever it wants to and in a formal way, to use some of its right on the wreck (except its ownership).

These principles have been applied in the Agreement between the Government of the USA and the Government of the French Republic regarding the wreck of ''La Belle'', signed at Washington, DC, March 31st, 2003, and the Agreement between the Government of the USA and the Government of the French Republic concerning the wreck of the CSS Alabama, signed at Paris, October 4th, 1989. Source: Communication from the French Foreign Ministry, November 28, 2003.

Germany: ''Under international law, warships and other vessels or aircraft owned or operated by a State and used only on government non-commercial service (''State vessels and aircraft'') continue to enjoy sovereign immunity after sinking, wherever they are located. The Federal Republic of Germany also retains ownership of any German State vessel or aircraft owned by it or the German Reich at the time of its sinking. Further, many sunken warships and aircraft are maritime graves, which have to be respected. No intrusive action may be taken in relation to German State vessels or aircraft without the express consent of the German Government.'' Source: Communication from the German Foreign Ministry, October 30, 2003.

Japan: ''According to international law, sunken State vessels, such as warships and vessels on government service, regardless of location or of the time elapsed remain the property of the State owning them at the time of their sinking unless it explicitly and formally relinquishes its ownership. Such sunken vessels should be respected as maritime graves. They should not be salvaged without the express consent of the Japanese Government.'' Source: Communication from the Government of Japan, September 13, 2003.

Russian Federation: ''Under international law of the sea all the sunken warships and government aircraft remain the property of their flag State. The Government of the Russian Federation retains ownership of any Russian sunken warship, including the warships of the Russian Empire and the Soviet Union, regardless the time they sank. These craft are considered places of special governmental protection and cannot be salvaged without special permission of the Government of the Russian Federation.'' Source: Communication from the Government of the Russian Federation, October 3, 2003.

Spain: ''The Embassy of Spain presents its compliments to the Department of State and has the honor to address the matter of Spanish laws and policy regarding the remains of sunken vessels that were lost while in the service of the Kingdom of Spain and/or were transporting property of the Kingdom of Spain. In accordance with Spanish and international law, Spain has not abandoned or otherwise relinquished its ownership or other interests with respect to such vessels and/or its contents, except by specific action pertaining to particular vessels or property taken by Royal Decree or Act of Parliament in accordance with Spanish law. Many such vessels also are the resting place of military and/or civilian casualties.

''The Embassy of Spain accordingly wishes to give notice that salvage or other disturbance of sunken vessels or their contents in which Spain has such interests is not authorized and may not be conducted without express consent by an authorized representative of the Kingdom of Spain.'' Source: Embassy of Spain, Washington, DC, Note No. 128, December 19, 2002.

United Kingdom: ''Under international law, warships, naval auxiliaries, and other vessels or aircraft owned or operated by a State and used only on government non-commercial service (''State vessels and aircraft'') enjoy sovereign immunity. State vessels and aircraft continue to enjoy sovereign immunity after sinking, unless they were captured by another State prior to sinking or the flag State has expressly

relinquished its rights. The flag State's rights are not lost merely by the passage of time. Further, many sunken State vessels and aircraft are maritime graves, which should be respected. No intrusive action may be taken in relation to the United Kingdom's sovereign immune State vessels or aircraft without the express consent of the United Kingdom.'' Source: Communication from the UK Foreign and Commonwealth Office, July 4, 2003.

3. Anyone believing to have located or wishing to salvage a sunken State craft are advised to contact the government office noted below:

France: Ministère des Affaires étrangères, Direction des Affaires juridiques, Sous-direction du droit de la mer, des pêches et de l'Antarctique, 75351 Paris Cedex 7, France, Tel (011) 33 1 43 17 53 25; fax (011) 33 1 43 17 55 05.

Germany: Auswärtiges Amt, Referat 504, 11013 Berlin, Germany, Tel (011) 49 1888 17 3832; fax (011) 49 1888 17 53832; e-mail: _*@diplo.de.*

Japan: Embassy of Japan, 2520 Massachusetts Avenue, NW., Washington, DC 20008, Tel (202) 238–6700; fax (202) 328–2187.

Russian Federation: Legal Department, Ministry of Foreign Affairs, Russian Federation, Moscow, Fax (011) 7–095–241–11–66; e-mail: *DP@mid.ru.*

Spain: Minister for Cultural Affairs, Embassy of Spain, 2375 Pennsylvania Avenue, NW., Washington, DC 20037, Tel (202) 728–2334; fax (202) 496–0328; e-mail: *ocultura@erols.com.*

United Kingdom: NP Sec (P + P) 2, Room 125 Victory Building, HMNB Portsmouth, England UK, PO1 3LS, Tel: (011) 44 23 92 720548 or 727326; fax: (011) 44 23 92 727304, e-mail: *npsec-moduk@dial.pipex.com.*

United States: Naval Historical Center (NHC), Office of the Underwater Archaeologist, 805 Kidder Breeze Street NE., Washington Navy Yard, DC 20374–5060, Tel (202) 433–2210; fax (202) 433–2729, *http://www.history.navy.mil.*

Any other nation not listed above: Office of Ocean Affairs (OES/OA), U.S. Department of State, 2201 C. Street, NW., Washington, DC 20520, Tel (202) 647–3880; fax (202) 647–9099.

4. The Presidential Statement on United States Policy for the Protection of Sunken State Craft reads in full as follows:

Thousands of United States government vessels, aircraft and spacecraft (''State craft''), as well as similar State craft of foreign nations, lie within, and in waters beyond, the territorial sea and contiguous zone. Because of recent advances in science and technology, many of these sunken government vessels, aircraft and spacecraft have become accessible to salvors, treasure hunters and others. The unauthorized disturbance or recovery of these sunken State craft and any remains of their crews and passengers, is a growing concern both within the United States and internationally. In addition to deserving treatment as gravesites, these sunken State craft may contain objects of a sensitive national security, archaeological or historical nature. They often also contain unexploded ordnance that could pose a danger to human health and the marine environment if disturbed, or other substances, including fuel oil and other hazardous liquids, that likewise pose a serious threat to human health and the marine environment if released.

I believe that United States policy should be clearly stated to meet this growing concern. Pursuant to the property clause of Article IV of the Constitution, the United States retains title indefinitely to its sunken State craft unless title has been abandoned or transferred in the manner Congress authorized or directed. The United States recognizes the rule of international law that title to foreign sunken State craft may be transferred or abandoned only in accordance with the law of the foreign flag State.

Further, the United States recognizes that title to a United States or foreign sunken State craft, wherever located, is not extinguished by passage of time, regardless of when such sunken State craft was lost at sea.

International law encourages nations to preserve objects of maritime heritage wherever located for the benefit of the public.

Those who would engage in unauthorized activities directed at sunken State craft are advised that such disturbance or recovery should not occur without the express permission of the sovereign, and should only be conducted in accordance with professional scientific standards and with the utmost respect for any human remains.

The United States will use its authority to protect and preserve sunken State craft of the United States and other nations, whether located in the waters of the United States, a foreign nation, or in international waters.

Public Papers of the Presidents: William J. Clinton, vol. III, page 2956, Jan. 19, 2001, available through *http://www.gpo.gov/nara/pubpaps/srchpaps.html;* Weekly Compilation of Presidential Documents, vol. 37, no. 3, pages 195–196, available through *http://www.access.gpo.gov/nara/nara003.html.*

5. The failure to mention other sunken Government property of any nation should not be construed as abandonment or waiver of that nation's right.

Dated: January 12, 2004.

Margaret F. Hayes,

Director, OES/OA, Department of State.

[FR Doc. 04–2488 Filed 2–4–04; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 20–147, Turbojet, Turboprop, and Turbofan Engine Induction System Icing and Ice Ingestion

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of advisory circular (AC) 20–147, Turbojet, Turboprop, and Turbofan Engine Induction System Icing and Ice Ingestion. This AC describes acceptable means, but not the only means, for demonstrating compliance with the applicable regulations, helping to reduce inconsistencies and eventual surprises to both engine manufacturers and engine installers, when installing a part 33 certified engine in a part 23 or 25 aircraft. This AC is intended for engine manufacturers, modifiers, foreign regulatory authorities, FAA engine type certification engineers and their designees. This AC is neither mandatory nor regulatory in nature and does not constitute a regulation.

DATES: The Manager, Aircraft Engineering Division, issued AC 20–147 on 2/02/04.

FOR FURTHER INFORMATION CONTACT: John Fisher, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (781) 238–7149; fax: (781) 238–7199; e-mail: *john.fisher@faa.gov.* The subject AC is available on the Internet at the following address: *www.airweb.faa.gov/rgl.*

SUPPLEMENTARY INFORMATION: The FAA published a notice in the **Federal Register** on January 24, 2000 (65 FR 3752), and again on August 8, 2002 (67 FR 54011) to announce the availability of the proposed AC and invite interested parties to comment.

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

Issued in Washington, DC, on February 2, 2004.

David W. Hempe,

Manager, Aircraft Engineering Division.

[FR Doc. 04–2516 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; R.I. Bong Memorial Airport; Superior, WI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to authorize the sale of a portion of the airport property. Land to be sold comprises 26.67 acres located in the west-northwest portion of the airport. This acreage is not needed for aeronautical use as currently identified on the Airport Layout Plan.

The acreage comprising this parcel was originally acquired under Grant No. FAAP–9–47–022–6202, and AIP 3–55–SBGP–05–96 (Superior 03). The intended use of the property is for construction of a middle school by the School District of Superior (Wisconsin). An environmental assessment was prepared to address construction of the middle school on this acreage, and a Finding of No Significant Impact was issued by the Federal Aviation Administration in March 2001. The City of Superior (Wisconsin), as airport owner, has concluded that the subject airport land is not needed for expansion of airport facilities. There are no impacts to the airport by allowing the airport to dispose of the property. The airport owner wishes to transfer ownership of the land to support construction of the middle school. Revenues received from sale of the property will be applied toward capital improvement projects at the airport in accordance with the Airport Capital Improvement Plan. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance with FAA's Policy and procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before March 8, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel J. Millenacker, Program Manager, Federal Aviation Administration, Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, MN 55450–2706. Telephone Number (612) 713–4350/FAX Number (612) 713–4364. Documents reflecting this FAA action may be reviewed at this same location or at the City of Superior Public Works Department, 1407 Hammond Avenue, Superior, WI.

SUPPLEMENTARY INFORMATION: Following is a legal description of the subject airport property to be released at R.I. Bong Memorial Airport in Superior, Wisconsin and described as follows:

A parcel of land located in part of the Northwest quarter of the Southwest quarter (NW–SW) and part of the Southeast quarter of the Southwest quarter (SW–SW) of Section 26; and in part of the Southeast quarter of the Southeast quarter (SE–SE) of Section 27; all in Township 49 North, Range 14 West (T49N–R14W), City of Superior, Douglas County, Wisconsin, more particularly described as follows:

Commencing at the West quarter corner of said Section 26; Thence S 89°38′27″ E along the East-West quarter Section line of said Section 26 (and along the North line of the Nesbitt Blocks), 867.72 feet to the intersection with the centerline of West Thirty-fourth street, and the Point of Beginning (P.O.B.) of said parcel to be described; Thence continuing S 89°38′27″ E along said East–West quarter Section line of said Section 26 (and along said North line of the Nesbitt Blocks), 397.11 feet to the intersection with the South-westerly right-of-way of West Thirty-third Street; Thence S 41°35′45″ E along said Southwesterly right-of-way, 80.56 feet; Thence S 0°19′39″ W 30.85 feet; Thence S 36°38′38″ W, 2236.10 feet to the West line of, the Southwest quarter of said section 26; Thence S 36°38′38″ W along a so-called Fence Line Segment (previously described by others), 114.03 feet, more or less, to the South line of the North one-half of the Southeast quarter of the Southeast quarter (SE–SE) of said Section 27; Thence S 89°56′29″ W along said South line, 700.18 feet, more or less, to the intersection with the Southerly extension of the West right-of-way of John Avenue; Thence N 0°05′22″ E along said Southerly extension of the West right-of-way, 330.75 feet, more or less, to the South line of that parcel described in Records V.597 P.466; Thence N 89°56′22″ E, 65.80 feet, more or less, along said South line, Thence N 0°05′22″ E along the East line of said Records V.597 P.466, 330.76 feet, more or less, to the North line of the Southeast quarter of the Southeast quarter (SE–SE) of said Section 27; Thence N 89°56′24″ E along said North line, 706.37 feet, more or less, to the West line of the Southwest quarter of said Section 26; Thence N 45°29′56″ E, 46.67 feet to the East right-of-way of Hammond Avenue; Thence N 0°29′56″ E along said East right-of-way, 236.56 feet to the intersection with the centerline of Dakota Avenue (note: Dakota Avenue is referred to as Dakota Avenue on the Plat of the Nesbitt Blocks; it is referred to as Kansas Avenue on the Plat of Southwestern Division); Thence N 48°30′33″ E along said centerline, 1326.68 feet to the intersection with the centerline of West Thirty-fourth Street; Thence N 41°29′34″ W along said centerline, 226.22 feet to the P.O.B.

Said parcel contains 1,158,222 square feet (26.589 acres), more or less.

Said parcel subject to all easements, restrictions, and reservations of record.

Said P.O.B. bears N 21°35′25″ E, 3841.64 feet from the Southeasterly end of Runway 3–21 of the R. I. Bong Memorial Airport.

Said P.O.B. bears S 72°19′30″ W, 1711.47 feet from the Northeasterly end of Runway 3–21 of the R. I. Bong Memorial Airport.

Issued in Minneapolis, MN, on January 12, 2004.

Nancy Nistler,

Manager, Minneapolis Airports District Office, FAA, Great Lakes Region.

[FR Doc. 04–2447 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Compatibility Program Notice; Little Rock National Airport; Little Rock, AR

AGENCY: Federal Aviation Administration.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted for Little Rock National Airport under the provisions of 49 U.S.C. 47501 *et seq.* (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR

part 150 by Little Rock Municipal Airport Commission. This program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR part 150 for Little Rock National Airport were in compliance with applicable requirements, effective May 13, 2002 (announced in the **Federal Register**, Volume 67, Number 105, May 31, 2002). The proposed noise compatibility program will be approved or disapproved on or before July 21, 2004.

EFFECTIVE DATE: The effective date of the start of FAA's review of the noise compatibility program is January 23, 2004. The public comment period ends March 23, 2004.

FOR FURTHER INFORMATION CONTACT: Tim Tandy, ASW–630, Federal Aviation Administration, Fort Worth, Texas 76139–0630; telephone 817–222–5635. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for Little Rock National Airport which will be approved or disapproved on or before July 21, 2004. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has formally received the noise compatibility program for Little Rock National Airport, effective on January 23, 2004. The airport operator has requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 47504 of the Act. Preliminary review of the submitted material indicates that it conforms to FAR Part 150 requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before July 21, 2004.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety or create an undue burden on interstate or foreign commerce, and whether they are reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments relating to these factors, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, Texas.

Little Rock Municipal Airport Commission, Little Rock National Airport, One Airport Drive, Little Rock, Arkansas.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Fort Worth, Texas, January 23, 2004.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 04–2448 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2004–16944]

Notice of Availability

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of an Order dated January 21, 2004, requiring American Airlines/American Eagle and United Airlines/United Express to limit total scheduled arriving and departing flights during certain hours at Chicago O'Hare International Airport (ORD), beginning no later than March 4, 2004, and continuing through September 1, 2004.

Availability of Order: A copy of the FAA Order has been place din the Department of Transportation Docket (Docket No. FAA–2004–16944). The Docket Web site is *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Lorelei Peter, Senior Attorney, Office of the Chief Counsel, AGC–220, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone number: (202) 267–3134.

SUPPLEMENTARY INFORMATION: On January 21, 2004, the FAA Administrator issued an Order requiring American Airlines/American Eagle and United Airlines/United Express to each reduce by five percent their total scheduled operations at ORD from 1 p.m. through 7:59 p.m. local time beginning no later than March 4, 2004, and continuing through September 1, 2004. The schedule reduction was needed to decrease an unacceptable level of air traffic delays related to flights scheduled in excess of the airport's capacity.

Issued in Washington, DC, on January 29, 2004.

Donald P. Byrne,

Assistant Chief Counsel, Regulations Division.

[FR Doc. 04–2444 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2004–07]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket

number involved and must be received on or before February 25, 2004.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA–2003–15590] by any of the following methods:

• *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.

• *Fax:* 1–202–493–2251.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.

• *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: John Linsenmeyer (202) 267–5174, Tim Adams (202) 267–8033, or Sandy Buchanan-Sumter (202) 267–7271, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on January 30, 2004.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petition for Exemption

Docket No.: FAA–2003–15590.

Petitioner: Minneapolis Community and Technical College.

Section of 14 CFR Affected: 14 CFR 65.101(a)(3), 65.101(a)(4), and 65.103(a).

Description of Relief Sought: To permit students of the Minneapolis Community and Technical College (MCTC) to apply for repairman certificates after successfully completing MCTC's avionics training program without being recommended or employed by an approved maintenance organization.

[FR Doc. 04–2438 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2004–08]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before February 25, 2004.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA–200X–XXXXX] by any of the following methods:

• *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.

• *Fax:* 1–202–493–2251.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.

• *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Tim Adams (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on January 30, 2004.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2000–8528.

Petitioner: Popular Rotorcraft Association.

Section of 14 CFR Affected: 14 CFR 91.319(a).

Description of Relief Sought: To permit the Popular Rotorcraft Association and its member flight instructors to conduct pilot and flight instructor training in an experimental gyroplane for compensation or hire to allow for Commercial and Certified Flight Instructor Gyroplane ratings.

[FR Doc. 04–2439 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Deadline for Notification of Intent To Use the Airport Improvement Program (AIP) Sponsor Entitlement, Cargo Funds, and Nonprimary Entitlement Funds for Fiscal Year 2004

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces May 1, 2004, as the deadline for each airport sponsor to notify the FAA that it will use its fiscal year 2004 entitlement funds to accomplish projects identified in the Airports Capital Improvement Plan that was formulated in the spring of 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Molar, Manager, Airports Financial Assistance Division, Office of Airport Planning and Programming, APP–500, on (202) 267–3831.

SUPPLEMENTARY INFORMATION: Section 47105(f) of Title 49, United States Code, provides that the sponsor of each airport to which funds are apportioned shall notify the Secretary by such time and in a form as prescribed by the Secretary, of the sponsor's intent to apply for the funds apportioned to it (entitlements). This notice applies only to those

airports that have received such entitlements, except those nonprimary airports located in designated Block Grant States. Notification of the sponsor's intent to apply during fiscal year 2004 for any of its available entitlement funds including those unused from prior years, shall be in the form of inclusion of projects for fiscal year 2004 in the Airports Capital Improvement Plan.

This notice is promulgated to expedite and prioritize grants in the final quarter of the fiscal year. Absent an acceptable application by May 1, 2004, FAA will defer an airport's entitlement funds until the next fiscal year. Pursuant to the authority and limitations in section 47117(f), FAA will issue discretionary grants in an aggregate amount not to exceed the aggregate amount of deferred entitlement funds. Airport sponsors may request unused entitlements after September 30, 2004.

Issued in Washington, DC, on September 30, 2004.

Barry Molar,

Manager, Airports Financial Assistance Division.

[FR Doc. 04–2446 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 201: Aeronautical Operational Control (AOC) Message Hazard Mitigation (AMHM)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 201 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 201: Aeronautical Operational Control (AOC) Message Hazard Mitigation (AMHM).

DATES: The meeting will be held on February 17–19, 2003, beginning at 9 a.m.

ADDRESSES: The meeting will be held at American Airlines Flight Academy, 4601 Highway 360, FAA Road, Fort Worth, Texas 76155.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036–5133; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.* (2) Mr. Harold Hohlen, (817) 967–9500, e-mail at *Harold.Hohlen@aa.com.*

SUPPLEMENTARY INFORMATION: Purusant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 201 meeting. The agenda will include:

February 17:

- Opening Session (Welcome, Introductory and Administrative Remarks, Review Agenda, Background).
- Review of phonecon discussions and conclusions.
- Drafting group work on other sections of the document:
  - Subgroup A Section 2
  - Subgroup B Section 3
  - Subgroup C Section 4
- Closing Session (Other Business, Date and Place of Next Meeting, Closing Remarks, Adjourn).

Note: This agenda will be followed as appropriate over the course of 3 days.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 9, 2004.

Robert Zoldos,

FAA System Engineer, RTCA Advisory Committee.

[FR Doc. 04–2449 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Multiple North-Central, Central and South Texas Counties, State of Texas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA issuing this notice to advise the public that a Tier One environmental impact statement (EIS) will be prepared for a proposed multi-modal transportation facility to extend south from the Texas-Oklahoma state line, north of the Dallas/Fort Worth metropolitan area, through Central Texas, to the Texas-Mexico international border and/or the Texas Gulf Coast. The proposed facility, known as Trans-Texas Corridor 35 (TTC–35), is a priority element of the proposed Trans-Texas Corridor system for the State of Texas as conceptually outlined in *Crossroads of the Americas: Trans-Texas Corridor Plan* (TTCP), June 2002.

FOR FURTHER INFORMATION CONTACT: Salvador Deocampo, District Engineer, Federal Highway Administration, 300 E. 8th Street, Room 826, Austin, Texas 78701, Telephone: (512) 536–5950.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas Department of Transportation (TxDOT), intends to prepare a Tier One EIS for the selection of a corridor for the proposed construction of the TTC–35 multi-modal transportation facility. As currently envisioned, the proposed TTC–35 facility would include highway lanes for passenger vehicles; separate lanes for trucks; and rail lines (one in each direction serving freight, commuter and high speed passenger traffic). Interchanges or grade separations would be constructed at thoroughfares and direct connector ramps would be provided at selected facilities. The width of the typical section for the proposed facility would be approximately 1,000 to 1,200 feet, which would include a 200-foot wide utility zone that could ultimately accommodate lines for water, petroleum, natural gas, electricity, data and other commodities. The proposed facility would extend from the Texas-Oklahoma state line, north of the Dallas/Fort Worth metropolitan area, through Central Texas, to the Texas-Mexico international border and/or the Texas Gulf Coast—a distance of approximately 800 miles. The actual length would be dependent upon the corridor selected during the Tier One EIS and subsequent route location studies to occur during Tier Two. For much of its length, it is anticipated that the proposed TTC–35 facility would generally parallel existing Interstate Highway 35; however, to maximize flexibility in determining a southern terminus at the United States/Mexico International Border and/or the Texas Gulf Coast, much of south Texas and the Rio Grande Valley will be analyzed in the Tier One EIS.

FHWA and TxDOT anticipate utilizing a combination of traditional and innovative financing options to fund construction of the proposed facility. These options include state and federal transportation sources, public/private partnerships and tolling.

The Tier One EIS will focus on broad issues such as general location, and area wide air quality and land use implications of the major alternatives. Alternatives to be considered in the Tier One EIS will include corridor location alternatives and the no-action alternative. Anticipated decisions to be made during the Tier One study include

identification of a preferred corridor location alternative; refinement of modal concepts; identification of preliminary segments of independent utility and identification of areas that may warrant corridor preservation. The Tier One EIS and subsequent record of decision, once issued, will not authorize construction of any portion of the proposed TTC–35 facility.

Documents prepared during Tier Two will retain the no-action alternative for consideration and comparison with the reasonable build alternatives, further refine the selected corridor, and would address site-specific details on project impacts, cost and mitigation measures; and would rely upon and utilize the environmental analysis in the Tier One EIS. Tier Two documents could be in the form of Environmental Assessments, Categorical Exclusions or EISs depending on the type, scope and complexity of proposed second tier projects.

As a priority element of the Trans-Texas Corridor system, the proposed TTC–35 facility is considered necessary to enhance the Texas transportation system by facilitating management of congestion in urbanized areas, improving safety of hazardous materials transport, and creating economic development opportunities.

Public scoping meetings will be held for the proposed project; however, dates for the meetings have not yet been determined. At least 30 days and 10 days prior to the public scoping meetings, notice of the meetings will be published in newspapers having general circulation in the project area. In addition to the public scoping meetings, letters describing the proposed action and soliciting comments to be considered during the scoping process will be sent to appropriate federal, state and local authorities as well as private organizations, individuals and stakeholders who have previously expressed or are known to have an interest in this proposal. Public meetings and a public hearing(s) will be held during appropriate phases of the project development process. Public notices will be given of the date, time, and location of each.

A second high priority Trans-Texas Corridor—the I–69 High Priority Corridor—is also under development and a Tier One EIS will be prepared for that facility. A separate Notice of Intent for that EIS was published in the **Federal Register** on January 15, 2004. Although the I–69 facility and TTC–35 are separate and distinct actions, with each having logical termini and independent utility, each of the proposed facilities shares the need to terminate along the Texas-Mexico International Border or Texas Gulf Coast resulting in overlap of study areas. In the overlapping areas, care will be taken to closely coordinate the development of the two facilities in order to minimize duplication of effort and inconvenience to the public, resource agencies and other stakeholders. Both projects will be considered in the cumulative impacts analysis for each of the facilities.

To ensure that the full range of issues related to this proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the Tier One EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 26, 2004.

Salvador Deocampo,

District Engineer, Austin, Texas.

[FR Doc. 04–2428 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2004–17003]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces the intention of the Information Collection Request (ICR) for extension of the currently approved information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments was published on September 26, 2003.

DATES: Comments must be submitted before March 8, 2004. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Sylvia L. Marion, Office of Administration, Office of Management Planning, (202) 366–6680.

SUPPLEMENTARY INFORMATION:

Title: Americans with Disabilities Act *(OMB Number: 2132–0555).*

Abstract: On July 26, 1990, the President signed into law civil rights legislation entitled, ''The Americans with Disabilities Act of 1990'' (ADA) (Pub. L. 101–336). It contains sweeping changes for individuals with disabilities in every major area of American life. One key area of the legislation addresses transportation services provided by public and private entities. Some of the requirements under the ADA are: (1) No transportation entity shall discriminate against an individual with a disability in connection with the provision of transportation service; (2) All new vehicles purchased by public and private entities after August 25, 1990, must be readily accessible to and usable by persons with disabilities, including individuals who use wheelchairs; (3) Public entities that provide fixed route transit must provide complementary paratransit services for persons with disabilities, who are unable to use the fixed route system, that is comparable to the level of service provided to individuals without disabilities; and (4) Transit authorities who are able to substantiate that compliance with all service criteria of the paratransit provisions would cause undue financial burden, may request a temporary time extension in implementing ADA complementary paratransit service.

On September 6, 1991, DOT issued a final rule implementing the transportation provisions of ADA (Title 49 CFR parts 27, 37, and 38), which includes the requirements for complementary paratransit service by public entities operating a fixed route system and the provision of nondiscriminatory accessible transportation service. The regulation sets forth the changes needed to fulfill the Congressional mandates to substantially improve access to mass transit service for persons with disabilities. Effective January 26, 1997, paratransit plans are no longer required. However, if FTA reasonably believes that an entity may not be complying with all service criteria, FTA may require an annual update to the entity's plan. In addition, all other ADA compliance requirements must still be satisfied. The information collected provides FTA with a basis for monitoring compliance. The public entities, including recipients of FTA funds, are required to provide information during triennial reviews, complaint investigations, resolutions of complaints, and compliance reviews.

Estimated Total Annual Burden: 36,000 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information

and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: FTA Desk Officer.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: January 30, 2004.

Ann M. Linnertz,

Special Projects Officer.

[FR Doc. 04–2451 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2004–17004]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) this notice announces the intention the Information Collection Request (ICR) for extension of the currently approved information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments was published on September 9, 2003.

DATES: Comments must be submitted before March 8, 2004. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Sylvia L. Marion, Office of Administration, Office of Management Planning, (202) 366–6680.

SUPPLEMENTARY INFORMATION:

Title: Metropolitan and Statewide Transportation Planning (*OMB Number: 2132–0529*).

Abstract: The Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) jointly carry out the federal mandate to improve urban and rural transportation. 49 U.S.C. 5303 and 23 U.S.C. 134 and 135 authorize the use of federal funds to assist Metropolitan Planning Organizations (MPOs), states, and local public bodies in developing transportation plans and programs to serve the transportation needs of urbanized areas over 50,000 in population. The information collection activities involved in developing the Unified Planning Work Program (UPWP), the Metropolitan Transportation Plan, the Statewide Transportation Plan, the Transportation Improvement Program (TIP), and the Statewide Transportation Improvement Program (STIP) are necessary to identify and evaluate the transportation issues and needs in each urbanized area and throughout every state. These products of the transportation planning process are essential elements in the reasonable planning and programming of federally funded transportation investments.

In addition to serving as a management tool for MPOs and state DOTs, the UPWP is used by both FTA and FHWA to monitor the transportation planning activities of those agencies. It is also needed to establish national outyear budgets and regional program plans, develop policy on using funds, monitor state and local compliance with national technical emphasis areas, respond to Congressional inquiries, prepare congressional testimony, and ensure efficiency in the use and expenditure of federal funds by determining that planning proposals are both reasonable and cost-effective. 49 U.S.C. 5303 and 23 U.S.C. 134(h) require the development of TIPs for urbanized, STIPs are mandated by 23 U.S.C. 235(f). After approval by the Governor and MPO, metropolitan TIPs in attainment areas are to be incorporated directly into the STIP. For nonattainment areas, FTA/FHWA must make a conformity finding on the TIPs before including them into the STIP. The complete STIP is then jointly reviewed and approved or disapproved by FTA and FHWA. These conformity findings and approval actions constitute the determination that states are complying with the requirement of 23 U.S.C. 235 and 49 U.S.C. section 5303 as a condition of eligibility for federal-aid funding. Without these documents, approvals and findings, capital and/or operating assistance cannot be provided.

Estimated Total Annual Burden: 314,900 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: FTA Desk Officer.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued: January 30, 2004.

Ann M. Linnertz,

Special Projects Officer.

[FR Doc. 04–2452 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2003–17015]

Nissan North America, Inc.; Petition for Exemption From Two-Fleet Rule Affecting Compliance With the Passenger Car Fuel Economy Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of receipt of petition and request for comments.

SUMMARY: This notice announces the receipt of a petition from Nissan North America, Inc. (Nissan) for exemption from the statutory requirement that a manufacturer's fleet of domestically-manufactured passenger automobiles must comply with the passenger automobile corporate average fuel economy (CAFE) standards separately from the manufacturer's fleet of non-domestically manufactured passenger automobiles. The statute requires the agency to grant this petition unless it determines that doing so would result in reduced employment in the U.S. related to motor vehicle manufacturing during the period of exemption.

DATES: Comments on this petition must be received by the agency by March 8, 2004.

ADDRESSES: The petition is available for public inspection in the docket whose number appears in the heading at the beginning of this notice. You may call the Docket Management System at (202) 366–0271 or you may visit the Docket Management System in Room PL–401, 400 Seventh Street, SW., Washington,

DC 20590 (10 a.m. to 5 p.m., Monday through Friday). You may also view the petition and any other information that becomes available on the Internet. To do this, do the following:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov*).

(2) On that page, click on ''Simple Search.''

(3) On the next page (*http://dms.dot.gov/searchform.simple.cfm*, type in the docket number ''xxxxxxx.'' After typing the docket number, click on ''Search.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments and other materials.

Comments: You may submit comments, making reference to the docket number in the heading at the beginning of this notice, by any of the following methods:

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Federal Rulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Please note that all comments received will be posted, without change, to *http://dms.dot.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: For issues other than legal ones, please contact Peter Feather, Office of International Policy, Fuel Economy and Consumer Programs (NVS–132), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; (202) 366–0842).

For legal issues, contact: Otto Matheke, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; (202) 366–5263).

SUPPLEMENTARY INFORMATION:

Statutory Background

In 1975, Congress enacted the Energy Policy and Conservation Act (EPCA), mandating CAFE standards for passenger automobiles and for non-passenger automobiles. Public Law 94–163. *See* 49 U.S.C. 32901 *et seq.* In general, fuel economy ratings for domestically manufactured passenger automobiles may not be averaged together with those for non-domestically manufactured automobiles for purposes of determining compliance with CAFE standards. *See* 49 U.S.C. 32904(b)(1). This requirement is variously known as the ''two-fleet rule'' or ''fleet-split'' provision.

As originally enacted, the two-fleet rule provided that a passenger automobile is considered to be ''domestically manufactured'' if at least 75 percent of the cost to the manufacturer of such automobile is attributable to value added in the U.S. or Canada. *See* 49 U.S.C. 32904(b)(2). All other vehicles are treated as non-domestically manufactured, including any whose final assembly takes place in the U.S., but which use imported components whose value is more than 25 percent of the automobile's total value.

The two-fleet rule was enacted to keep the CAFE program from causing a loss of U.S. jobs by inducing U.S. based manufacturers to import fuel efficient passenger automobiles from abroad. However, the two-fleet rule can have the effect of discouraging foreign manufacturers from producing automobiles in the U.S. or from increasing the domestic content of their automobiles. For example, a foreign manufacturer might want to produce its most fuel-efficient vehicles in the U.S., rather than producing them abroad and exporting them to the U.S. As long as the domestic content of its U.S. produced vehicles remained below 75 percent, that manufacturer could continue to average together the fuel economy values of all its vehicles to be sold in the U.S. to comply with CAFE standards. However, if it exceeded the 75 percent domestic content level in its U.S. produced fleet (thereby increasing employment in the U.S.), it would become subject to the requirement that its two fleets must comply separately with CAFE standards. While its combined fleet of foreign and U.S.-produced vehicles might readily meet those standards, its fleet of foreign-produced vehicles imported into the U.S. (with the fuel efficient U.S.-produced vehicles excluded) might not comply. In such a situation, the manufacturer might well decide to continue to rely on more imported components. In the case of a foreign manufacturer that had not yet begun U.S. production, the manufacturer might choose not to begin U.S. production in the first instance.

To reduce this disincentive, Congress enacted the Automotive Fuel Efficiency Act of 1980, which provided for exemptions from the two-fleet rule for companies that began U.S. production in the 1975–85 period. Public Law 96–425. The exemption provision requires the agency to grant a manufacturer's petition unless the agency determines that granting the petition would result in reduced employment in the United States related to motor vehicle manufacturing. *See* 49 U.S.C. 32904(b)(6)(B).[1]

Under 49 U.S.C. 32904(b)(6)(C), the agency must grant or deny a petition by the 90th day after its receipt, but may extend the period to as much as the 150th day after receipt. If the agency extends the period, it must publish notice of, and reasons for, the extension in the **Federal Register**. The statute provides that if the agency does not make a decision within the time provided, the petition is deemed to have been granted.

Exemptions from the two-fleet rule may be granted for five years or longer should the manufacturer request and the agency so provide.

In November 1981, Volkswagen became the first and, to this date, only manufacturer exempted under this provision. *See* 46 FR 54453; November 2, 1981. The agency stated that, without an exemption, VW could continue to produce Rabbits in the U.S. with domestic content just below the 75 percent threshold and thus could continue to combine those passenger automobiles with its passenger automobiles produced elsewhere. It said that, with an exemption, VW might well increase the domestic content of its U.S. produced Rabbits, and thus increase U.S. employment. On the other hand, the agency noted that the exemption would eliminate the possibility of a future penalty for VW's non-domestically manufactured fleet of passenger and of an accompanying very small sales loss. On balance, the agency said that the U.S. employments benefits associated with increasing the domestic content of the U.S. produced Rabbits would greatly outweigh any U.S. employment loss resulting from a slightly lower retail price (due to the avoidance of civil penalties) for VW's non-domestically manufactured fleet.

In 1994, in adopting legislation implementing the North American Free

[1] ''The Secretary of Transportation shall grant the exemption unless the Secretary finds that the exemption would result in reduced employment in the United States related to motor vehicle manufacturing during the period of the exemption.''

Trade Agreement, Congress amended the two-fleet rule to treat value added in Mexico as domestic content. As amended, the two-fleet rule provided that a passenger automobile is considered to be ''domestically manufactured'' if at least 75 percent of the cost to the manufacturer of such automobile is attributable to value added in the U.S., Canada or Mexico. *See* 49 U.S.C. 32904(b)(3)(A). It did not mandate this change in the two-fleet rule be immediately effective, but provided that it would become effective not later than the 2005 model year.

Nissan's Petition

Nissan submitted a petition for exemption from the two-fleet rule on January 23, 2004. It requested exemption for the 2006–2010 model year period or until circumstances remove the need for an exemption.

Nissan noted that, beginning in the 2005 model year, its Sentra, which is primarily manufactured in Mexico, would become considered to be domestically manufactured as a result of the amendments made by the NAFTA implementation legislation. The value added in Mexico would become domestic content in that year, causing the Sentra to switch from its non-domestic fleet to its domestic fleet. This would cause the non-domestic fleet to fail to meet the CAFE standard for passenger automobiles, and raise the CAFE of Nissan's domestic fleet well above the standard.

Nissan said:

> * * * [I]t may be forced to decrease domestic content and outsource the production of one or all of its domestically manufactured vehicles—*i.e.*, the Sentra, Altima or Maxima—in order to offset this imbalance. Decreasing the domestic content level of the Sentra could result in a decrease in the use of U.S.-made components, such as radiators, air conditioners, suspensions, engine parts and some engines, currently used in the Sentra. Likewise, decreasing the domestic content level of the Altima or Maxima, which currently make up Nissan's domestic fleet, would mean decreasing production at NNA's [Nissan's] Smyrna, Tennessee plan and reducing domestic engine production at the Decherd, Tennessee plant. Such reductions in domestic production of the Altima or Maxima could likely lead to reduction in employment at Nissan's Tennessee plants. Accordingly, an exemption from the [two-fleet] provision is necessary for Nissan to maintain existing levels of Sentra production in Mexico, and Altima and Maxima production at Smyrna, Tennessee, as well as the corresponding levels of engine and component production in Decherd, Tennessee. (at 4)

Nissan said further:

> [A]n exemption from separate calculations under the CAFE program will allow Nissan to continue its current pace of expansion in U.S. production in model years 2006–2010 and to increase the level of local content beyond 75% in additional vehicles, without becoming subject to CAFE penalties. Failure to grant the petition will force Nissan to reconsider the current ramp up in U.S. investment as resources are diverted from expansion in the United States to addressing the CAFE issue. (at 8)

Request for Public Comments

The agency invites any individuals or organizations that have information bearing on the effect that granting the petition might have on employment in the U.S. related to motor vehicle manufacturing to submit that information during the public comment period specified at the beginning of this notice.

One approach to analyzing such a petition would be to analyze the likely effect of granting the petition on total employment in the U.S. related to motor vehicle manufacturing during the period for which the exemption is requested. We could measure this effect by determining the difference between projected total motor vehicle-related employment in the U.S. (*i.e.*, all manufacturers in the U.S.) if the petition is granted, and the projected total level of U.S. motor vehicle-related employment if the petition is denied. Further, NHTSA might look across the entire spectrum of employment in the U.S. related to motor vehicle manufacturing, regardless of whether the employment is associated with ''foreign'' or ''domestic'' manufacturers, and assess the net effect of granting or denying a petition on employment in the U.S. related to motor vehicle manufacturing during the period of exemption.

To aid in the analysis of Nissan's petition, the agency seeks specific information from manufacturers of models that would compete with Nissan's vehicles. Nissan's petition states that if the agency declines to grant Nissan the requested exemption, Nissan is likely to re-source the content of some of its vehicles away from the U.S. (at 14) Nissan's petition does not provide any estimates of costs (or savings) that might be associated with any such re-sourcing. Nissan's petition also does not provide details regarding the potential nature and costs (or savings) of re-sourcing content away from non-NAFTA countries (in particular, Japan) and toward NAFTA countries (in particular, the United States).

We request that manufacturer comments on Nissan's petition provide information regarding costs or savings likely to result from different degrees of re-sourcing between different countries, as indicated in Table 1:

TABLE 1.—AVERAGE RPE INCREASE (DECREASE) FOR RE-SOURCING, IN 2003 U.S. DOLLARS

Re-Sourcing		Amount (share of value added)						
From	To	1%	2%	5%	10%	20%	50%	100%
Canada	Japan							
Canada	Mexico							
Canada	U.S.							
Mexico	Canada							
Mexico	Japan							
Mexico	U.S.							
U.S.	Canada							
U.S.	Mexico							
U.S.	Japan							

Nissan's petition also indicates (at 18) that, even if the agency does not grant the requested exemption and the sale of Nissan's imported vehicles therefore declines, ''it is unlikely that domestic manufacturers would capture these lost sales'' because ''Nissan purchasers typically prefer import vehicles.'' The agency's 1981 regulatory evaluation for VW's petition similarly concluded, *inter alia,* that ''there appears to be such a phenomenon as the 'import buyer'.'' (at 10)

We request that commenters address the extent to which such statements

might be relevant to the post-2005 marketplace. In particular, we ask that commenters provide the information indicated in Table 2 regarding any vehicle models they expect to compete, even partially, with any Nissan passenger automobile:

TABLE 2.—VEHICLES COMPETING WITH A GIVEN NISSAN MODEL

	Vehicle competing with [Nissan model]
Name Plate	
MSRP (2003$)	
Curb Weight	
Displacement (liter)	
Power (hp)	
Value Added (%)	
Canada	
Mexico	
U.S.	
Other	
Assembly Location	
Engine	
Transmission	
Vehicle (Final Assembly)	
Production Jobs/Vehicle	
Canada	
Mexico	
U.S.	
Other	
Projected U.S. Sales	
MY 2005	
MY 2006	
MY 2007	
MY 2008	
MY 2009	
MY 2010	
Change in Sales if Price of Competing Nissan Increases by	
$50	
$100	
$200	
$500	
$1,000	

For each model that a commenter believes to be a competitor with a Nissan model, the commenter should explain the basis for that belief.

Submission of Comments and Requests for Confidentiality

Interested persons are invited to comment on this petition. It is requested, but not required, that two copies be submitted to the Office of Docket Management, Room PL–401, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

We request that all comments be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, action on the petition may proceed at any time after that date.

Timing of Decision

As noted above, the agency must grant or deny a petition by the 90th day after its receipt, but may extend the period to as much as the 150th day after receipt. For the Nissan petition, the 90th day is April 22, 2004, and the 150th day is June 21, 2004.

Analyses and Impacts

NHTSA notes that it prepared an environmental assessment of its granting of the VW petition in 1981 and concluded that that action did not constitute a ''major Federal action significantly affecting the environment'' requiring an environmental impact statement. Since then, several U.S. Circuit Courts of Appeals held that NEPA compliance is unnecessary where the agency action at issue involves little or no discretion on the part of the agency.[2] We believe that this is such a situation. NHTSA has no discretion to consider the environmental consequences of granting the petition and essentially no discretion whether to grant Nissan's petition. Under the CAFE statute, the only relevant issue is the impact on U.S. employment related to automobile manufacturing. Unless the

[2] *Citizens Against Rails-to-Trails* v. *Surface Transp. Bd.* 267 F.3d 1144, 1153 (D.C. Cir. 2001). *Sac & Fox Nation of Missouri* v. *Norton,* 240 F.3d 1250, 1262 (10th Cir. 2001); *Sierra Club* v. *Babbitt,* 65 F.3d 1502, 1513 (9th Cir.1995).

agency is able to find that granting the petition would reduce U.S. employment related to automobile manufacturing, the agency has no discretion—it must grant the petition. If the agency takes no action within the time prescribed by the statute, the statute provides that the petition will be automatically granted. Accordingly, the granting of the petition would not be a ''major Federal action'' within the meaning of NEPA.

Since this proceeding will not result in the issuance of a ''rule'' within the meaning of the Administrative Procedure Act or Executive Order 12866, neither the requirements of the Executive Order nor those of the Department's regulatory procedures apply. Therefore, no regulatory analysis or evaluation was prepared for the proposal. For the same reasons, the requirements of the Regulatory Flexibility Act do not apply.

As appropriate, the agency will conduct further analyses of these impacts, considering information submitted during the comment period, in conjunction with the final decision on this petition.

(Authority: 49 U.S.C. 32904, delegations of authority at *49 CFR 1.50* and *501.8*.)

Issued on February 2, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 04–2462 Filed 2–2–04; 3:27 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–03–16341, Notice 2]

Group Lotus Plc.; Grant of Application for a Temporary Exemption From Federal Motor Vehicle Safety Standard No. 108 and Part 581 Bumper Standard

This notice grants the Group Lotus Plc. (''Lotus'') application of for a temporary exemption from Paragraph S7 of Federal Motor Vehicle Safety Standard (''FMVSS'') No. 108, *Lamps, reflective devices, and associated equipment*; and Part 581 *Bumper Standard*. In accordance with 49 CFR Part 555, the basis for the grant is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

The National Highway Traffic Safety Administration (NHTSA) published a notice of receipt of the application on October 24, 2003, and afforded an opportunity for comment.[1]

I. Background

Lotus, which was founded in 1955, produces small quantities of performance cars. In the past five years, Lotus has sold a total of 550 automobiles in the United States. The only current Lotus vehicle sold in the Unites States is Lotus Esprit (''Esprit''). In the same time period, Lotus has manufactured a total of 18,888 vehicles worldwide, including Lotus Elise (''Elise'').

The Elise was introduced in 1996, but it was not originally designed or intended for the U.S. market. However, after deciding to terminate production of the Esprit by 1999[2], petitioner sought to introduce the Elise in the United States. Significant management, ownership and financial hardship issues contributed to the delay in introducing the Elise model. Recently, Peruashan Otomobile Nasional Berhad (''Proton'') has taken a 100% ownership of Lotus. Petitioner is now ready to introduce the Elise vehicle into the U.S. Market. A description of the Elise vehicle is set forth in the Exhibit 1 of the petition (Docket No. NHTSA–03–16341–1). For additional information on the vehicle, please go to *www.LotusCars.com*.

II. Why Lotus Needs a Temporary Exemption

Lotus has continued to experience substantial economic hardship, previously discussed by the agency in a March 3, 2003 Renewal of a Temporary Exemption from FMVSS No. 201 (68 FR 10066).[3] Lotus' latest financial submissions showed an operating loss of £43,228,000 (≈ $69,000,000) for the fiscal year 2000; a loss £18,055,000 (≈ $29,000,000) for the fiscal year 2001; and a loss of £2,377,000 (≈ $4,000,000) for its fiscal year 2002. This represented a cumulative loss for a period of 3 years of £63,660,000 (≈ $102,000,000).[4]

According to the petitioner, the cost of making the Elise compliant with the headlighting requirements of FMVSS 108 and the bumper standard was beyond the company's current capabilities. Petitioner contended that developing and building FMVSS-compliant headlamps and Part 581-compliant bumpers cannot be done without redesigning the entire body structure of the Elise. Specifically, developing Part 581-compliant bumpers would cost $6 million dollars over a period of 2 years. Producing an actual FMVSS-compliant headlamp would cost approximately $1.1 million. In addition, there are unspecified costs of body modifications in order to accommodate the new headlamp, because there is insufficient space in the current body structure to permit an FMVSS-compliant headlamp.

Lotus requested a three-year exemption in order to concurrently develop compliant bumpers and headlamps and make necessary adjustments to the current body structure. Petitioner anticipates the funding necessary for these compliance efforts will come from immediate sales of Elise vehicles in the United States.

III. Why Compliance Would Cause Substantial Economic Hardship and How Lotus Has Tried in Good Faith To Comply With Standard No. 108 and the Bumper Standard

Petitioner contended that Lotus could not return to profitability unless it receives the temporary exemption. In support of their contention, Lotus prepared alternative forecasts for the next 3 fiscal years. The first forecast assumed that the petitioner receives exemptions from S7 of FMVSS No. 108 and the bumper standard. The second forecast assumed the exemptions are denied.[5] In the event of denial, Lotus anticipated extensive losses through the fiscal year 2006, because it could not bring the Elise into full compliance any earlier.

Fiscal year	Forecast if exemptions granted (in $)	Forecast if exemptions denied (in $)
2003	≈$975,000	≈ – $1,700,000

[1] See 68 FR 61035. To view the Lotus application, please go to the DOT Docket Management System at *http://dms.dot.gov/* (Docket No. NHTSA–03–16341).

[2] Exprit production was eventually extended by three years while petitioner sought to bring Elise into compliance with FMVSS. Esprit ceased production on 12/31/2003.

[3] We note that the Elise vehicle is FMVSS No. 201 compliant.

[4] All dollar values are based on an exchange rate of £1 = $1.60.

[5] See Petition Exhibit 2 (Docket No. NHTSA–03–16341–1).

Fiscal year	Forecast if exemptions granted (in $)	Forecast if exemptions denied (in $)
2004	≈$12,520,000	≈ − $15,402,000
2005	≈$11,749,000	≈ − $22,718,000

According to the petition, Lotus expended substantial resources (approximately $27,000,000) in the past 12 months in order to bring Elise into compliance with the Federal Motor Vehicle Safety Standards and other U.S. regulations. Specifically, Lotus invested approximately $5,000,000 in order to obtain a suitable engine supplier capable of complying with U.S. emissions standards. Next, Lotus developed an FMVSS 208 compliant air bag system. Significant resources are currently being expended in order to bring Elise in compliance with all other Federal Motor Vehicle Safety Standards, including FMVSSs 208, 210, 212, 214, 219 and 301.

As previously discussed, the Elise was not designed for the U.S. market and does not have a conventional bumper system or the underlying bumper structure. Instead, it was designed with ''clam shell'' body parts. According to the petitioner, installing a compliant bumper system would require re-designing the entire body of the automobile.

Petitioner considered equipping the Elise with an ''interim headlamp'' that would comply with FMVSS No. 108. This headlamp would not feature a polycarbonate cover currently on the vehicle, and would have been assembled from ''off-the-shelf'' parts. However, the development of this ''interim headlamp'' would cost $500,000. Because Lotus anticipated introducing an all-new, fully compliant Elise in 2006, the projected number of vehicles sold until the introduction of the new 2006 model could not justify this investment.

Petitioner contended that installation of ''an interim headlamp'' without a polycarbonate cover would also significantly decrease forecasted sales because aesthetic appearance of the automobile would be compromised. Lotus marketing research forecasted a sales decline of as much as 30%. Further, the absence of the polycarbonate cover would have a negative effect on vehicle aerodynamics, and would decrease fuel economy. Finally, Lotus indicated that installation of ''interim headlamps'' could result in U.S. customers purchasing aftermarket or ''European-spec'' headlamps and installing these headlamps on their vehicles.

As previously stated, Lotus plans to introduce the second generation Elise in late 2006. This vehicle will feature compliant headlamps, bumpers and advanced air bags.

IV. Why an Exemption Would Be in the Public Interest and Consistent With the Objectives of Motor Vehicle Safety

Petitioner put forth several arguments in favor of a finding that the requested exemption is consistent with the public interest and the objectives of the Safety Act. Specifically:

1. Petitioner notes that the current Elise headlamp does not pose a safety risk because the headlamp's photometrics are very close to the requirements of FMVSS 108. The headlamp has also been subjected to environmental testing, and has a good warranty record.

2. Petitioner argues that the clamshell body system utilized by the Elise vehicle acts to reduce low-speed damage even in the absence of conventional bumpers. In a situation involving greater damage, the cost of an entire fiberglass clamshell is comparable to bumper-related repair costs of other ''high-end'' vehicles.

3. Petitioner suggests that denial of the petition would prevent Lotus from introducing the Elise for a period of three years and would in fact cause Lotus to cease U.S. operations. This would in turn result in loss of jobs by Lotus employees in the U.S.[6]

4. With respect to consumers, petitioner argues that denial of the petition would limit consumer choices by eliminating Lotus from the marketplace. Lotus contends that its continued presence in the U.S. is needed in order to provide parts and service for the existing Lotus Esprit customers.

5. Lotus remarks that due to the nature of the Elise vehicle, it will, in all likelihood, be utilized infrequently, and then as a ''second'' or a recreational vehicle.

6. Finally, Lotus notes that the Elise does comply with all other Federal Motor Vehicle Safety Standards, and features above-average fuel economy.

[6] In the event the application was granted, Lotus anticipated hiring more employees and expanding its dealer network.

V. Comments Received on Lotus Application

The agency received a single comment in response to the notice of the application. The sole commenter was Mr. Alan Riley, the executive editor of Roadfly, an on-line automotive enthusiast community. Mr. Riley is in favor of granting the exemption. In support of his position, Mr. Riley indicated that the exemption would enable Lotus to maintain a continued presence in the U.S., which is important not only to potential Elise purchasers, but also to those individuals who already own Lotus vehicles and seek to properly maintain them.

VI. The Agency's Findings

The Lotus application for a temporary exemption clearly demonstrates the financial difficulties experienced by the company, with cumulative losses in the past three years exceeding $100,000,000. Further, the application indicates that Lotus has made a good faith effort and spent approximately $27,000,000 to bring Elise into compliance with federal safety standards.

Traditionally, the agency has found that the public interest is served in affording continued employment to a small volume manufacturer's work force. The agency has also found that the public interest is served by affording the consumers a wider variety of motor vehicles. In this instance, denial of the petition would most likely put Lotus out of business in the U.S. Further, an exemption would assure an adequate supply of spare parts and afford a continuing, uninterrupted commercial relationship with Lotus dealers and their employees in the United States.

The term of this exemption will be limited to three years and the agency anticipates that the Elise vehicle will be sold in limited quantities. With the help of revenues derived from U.S. sales, Lotus will introduce an all new, fully compliant vehicle that will replace the current Elise by 2006.

Because Lotus will be manufactured in limited quantities and because each vehicle is likely to be operated only on a limited basis, the agency finds that this exemption will likely have a negligible impact on the overall safety of U.S. highways. The agency notes that the vehicle subject to this petition

complies with all other applicable Federal motor vehicle safety standards.

In consideration of the foregoing, it is hereby found that compliance with the requirements of Paragraph S.7 of 49 CFR 571.208, *Lamps, reflective devices, and associated equipment;* and 49 CFR part 581 *Bumper Standard* would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. It is further found that the granting of an exemption would be in the public interest and consistent with the objectives of traffic safety.

In accordance with 49 U.S.C. 30113(b)(3)(B)(i), Lotus is granted NHTSA Temporary Exemption No. EX 03–4, from Paragraph S.7 of 49 CFR 571.208, *Lamps, reflective devices, and associated equipment;* and 49 CFR part 581 *Bumper Standard.* The exemption shall remain in effect until January 1, 2007.

(49 U.S.C. 30113; delegation of authority at 49 CFR 1.50 and 501.8)

FOR FURTHER INFORMATION CONTACT: George Feygin in the Office of Chief Counsel, NCC–112, (Phone: 202–366–2992; Fax 202–366–3820; e-Mail: *George.Feygin@nhtsa.dot.gov*).

Issued on: February 2, 2004.

Jeffrey W. Runge,

Administrator.

[FR Doc. 04–2517 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2004–16996]

Results of the Survey on the Use of Passenger Air Bag On-Off Switches; Technical Report

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for comments on technical report.

SUMMARY: This notice announces NHTSA's publication of a technical report describing the use of passenger air bag on-off switches in pickup trucks. The report's title is Results of the Survey on the Use of Passenger Air Bag On-Off Switches.

DATES: Comments must be received no later than June 4, 2004.

ADDRESSES: *Report:* The report is available on the Internet for viewing on line in HTML format at *http://www.nhtsa.dot.gov/cars/rules/regrev/Evaluate/AirBagOnOffSurvey/index.html* and in PDF format at *http://www.nhtsa.dot.gov/cars/rules/regrev/Evaluate/AirBagOnOffSurvey/images/809 689.pdf.* You may also obtain a copy of the report free of charge by sending a self-addressed mailing label to Christina Morgan (NPO–321), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

Comments: You may submit comments [identified by DOT DMS Docket Number NHTSA–2004–16996] by any of the following methods:

- *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

You may call Docket Management at 202–366–9324 and visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Christina Morgan, Evaluation Division, NPO–321, Office of Planning, Evaluation and Budget, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW., Washington, DC 20590. Telephone: 202–366–2562. Fax: 202–366–2559. E-mail: *tmorgan@nhtsa.dot.gov.*

For information about NHTSA's evaluations of the effectiveness of existing regulations and programs: Visit the NHTSA Web site at *http://www.nhtsa.dot.gov* and click ''Regulations & Standards'' underneath ''Car Safety'' on the home page; then click ''Regulatory Evaluation'' on the ''Regulations & Standards'' page.

SUPPLEMENTARY INFORMATION: The technical report includes the results of a survey conducted by NHTSA to investigate how pickup truck drivers are using the passenger air bag on-off switches. On-off switches have been standard equipment in most pickup trucks since 1998. They enable a driver to turn off the air bag and prevent harm to a child passenger, but turn it on to protect an adult passenger. How often were the switches turned off for child passengers and how often were they turned on for adult passengers? The survey was conducted from July to November 2000 in four States—California, Georgia, Michigan, and Texas.

On the whole, the switches have been a necessary and a fairly successful interim measure that made it possible to offer life-saving air bags to adult passengers in pickup trucks without back seats, while allowing the opportunity to protect infants and children from the hazards of air bags when they must ride in the front seats of those vehicles. Nevertheless, the survey shows many of the air bags are being left on for children and turned off for adults. Drivers with children in rear-facing child safety seats achieved the highest rate of correct use of the air bag switch—86 percent. Forty-eight percent of the air bags were left on when only child passengers 1–12 years old were in the front seat, potentially exposing these children to a deployment. There is also a problem when drivers ride with only adult passengers (age 13 and older). While 83 percent of the switches were on, as they should be, 17 percent were switched off.

How Can I Influence NHTSA's Thinking on This Subject?

NHTSA welcomes public review of the technical report and invites reviewers to submit comments about the data and the statistical methods used in the analyses. NHTSA will submit to the Docket a response to the comments and, if appropriate, additional analyses that supplement or revise the technical report.

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the Docket number of this document (NHTSA–2004–16996) in your comments.

Your primary comments must not be more than 15 pages long (49 CFR 553.21). However, you may attach additional documents to your primary comments. There is no limit on the length of the attachments.

Please send two paper copies of your comments to Docket Management, submit them electronically, fax them, or use the Federal eRulemaking Portal. The mailing address is U.S. Department of Transportation Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. If you submit your comments electronically, log onto the Dockets Management System Web site at *http://dms.dot.gov* and click on

''Help & Information'' or ''Help/Info'' to obtain instructions. The fax number is 1–202–493–2251. To use the Federal eRulemaking Portal, go to *http://www.regulations.gov* and follow the online instructions for submitting comments.

We also request, but do not require you to send a copy to Christina Morgan, Evaluation Division, NPO–321, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW., Washington, DC 20590 (alternatively, Fax to 202–366–2559 or e-mail to *tmorgan@nhtsa.dot.gov*). She can check if your comments have been received at the Docket and she can expedite their review by NHTSA.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, send three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NCC–01, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC 20590. Include a cover letter supplying the information specified in our confidential business information regulation (49 CFR part 512).

In addition, send two copies from which you have deleted the claimed confidential business information to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit them electronically.

Will the Agency Consider Late Comments?

In our response, we will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

How Can I Read the Comments Submitted by Other People?

You may read the comments by visiting Docket Management in person at Room PL–401, 400 Seventh Street, SW., Washington, DC from 10 a.m. to 5 p.m., Monday through Friday.

You may also see the comments on the Internet by taking the following steps:

A. Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov*).

B. On that page, click on ''search.''

C. On the next page (*http://dms.dot.gov/search*) type in the five-digit Docket number shown at the beginning of this Notice (16996). Click on ''search.''

D. On the next page, which contains Docket summary information for the Docket you selected, click on the desired comments. You may also download the comments.

Authority: 49 U.S.C. 30111, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

James Simons,

Director of the Office of Regulatory Analysis and Evaluation.

[FR Doc. 04–2326 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket 98–4957; Notice]

Extension of Existing Information Collection: Comment Request

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

ACTION: Notice and request for public comments and OMB approval.

SUMMARY: This notice requests public participation in the Office of Management and Budget (OMB) approval process regarding an extension of an existing RSPA collection of information. RSPA published its intent to request OMB approval of information collection 2137–0596, National Pipeline Mapping Program under the Paperwork Reduction Act of 1995 and 5 CFR Part 1320 on November 12, 2003 (68 FR 64188–9). No comments were received. The public has an additional opportunity to provide comments.

DATES: Comments on this notice must be received on or before March 8, 2004, to be assured of consideration.

ADDRESSES: Interested persons are invited to send comments directly to: Office of Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, ATTN: Desk Officer for Department of Transportation. Please identify the docket and notice numbers shown in the heading of this notice.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, (202) 366–6205, to ask questions about this notice; or write by e-mail to *marvin.fell@rspa.dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: National Pipeline Mapping System Program.

Type of Request: Extension of existing information collection.

Abstract: The Department of Transportation (DOT) along with other Federal and state agencies has been working side by side with natural gas and hazardous liquid operators to develop a national pipeline mapping system (NPMS). This system depicts and provides data on the entire United States natural gas transmission and hazardous liquid pipeline system operating in the United States. The Pipeline Safety Improvement Act of 2002, promulgated on December 17, 2002, requires that all transmission pipeline operators provide maps of their pipelines. Additionally, it requires updates when ownership or operation of these lines change.

Estimate of Burden: 1 hour per mile.

Respondents: Gas transmission and hazardous liquid operators.

Estimated Number of Respondents: 900.

Estimated Total Annual Burden on Respondents: 157,112 hours.

This document can be reviewed between 9 a.m. and 5 p.m. Monday through Friday excluding Federal holidays at the Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh St., SW., Washington, DC 20590.

Comments Are Invited On: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Issued in Washington, DC, on January 30, 2004.

Richard D. Huriaux,

P.E., Manager, Regulations, Office of Pipeline Safety.

[FR Doc. 04–2454 Filed 2–4–04; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34453]

Genesee & Wyoming Inc.—Control Exemption—Arkansas, Louisiana & Mississippi Railroad Company and Fordyce & Princeton Railroad Company

AGENCY: Surface Transportation Board, Transportation.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board exempts from the prior approval requirements of 49 U.S.C. 11323 *et seq.* the acquisition by Genesee & Wyoming Inc. (GWI) of control of two Class III rail carriers (Arkansas, Louisiana & Mississippi Railroad Company (AL&M) and Fordyce & Princeton Railroad Company (F&P)) by purchase of all of the stock of each from Georgia Pacific Corporation. GWI is a noncarrier holding company that directly controls Buffalo & Pittsburgh Railroad, Inc., a Class II carrier operating in New York and Pennsylvania. GWI also directly controls 13 Class III carriers (Chattahoochee Industrial Railroad, Corpus Christi Terminal Railroad, Inc., Dansville and Mount Morris Railroad Company, Genesee & Wyoming Railroad Company, Inc., Golden Isles Terminal Railroad, Inc., Illinois & Midland Railroad, Inc., Louisiana & Delta Railroad, Inc., Portland & Western Railroad, Inc., Rochester & Southern Railroad, Inc., Savannah Port Terminal Railroad Inc., South Buffalo Railway Company, Utah Railway Company, and Willamette & Pacific Railroad, Inc.). GWI also indirectly controls 10 additional Class III carriers (Commonwealth Railway, Inc., Talleyrand Terminal Railroad, Inc., St. Lawrence & Atlantic Railroad Company, St. Lawrence & Atlantic Railroad (Quebec) Inc., York Railway Company, Salt Lake City Southern Railroad Company, Allegheny & Eastern Railroad, LLC, Pittsburg & Shawmut Railroad, LLC, Maryland and Pennsylvania Railroad, LLC, and Yorkrail, LLC).

DATES: The exemption will be effective on March 6, 2004. Petitions for stay must be filed by February 20, 2004. Petitions for reconsideration must be filed by March 1, 2004.

ADDRESSES: Send an original and 10 copies of any pleadings referring to STB Finance Docket No. 34453 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, send one copy of any pleading to GWI's representative: Troy W. Garris, Weiner Brodsky Sidman Kider PC, 1300 Nineteenth Street, NW., Fifth Floor, Washington, DC 20036–1609.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1616. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. Copies of the decision may be purchased from: ASAP Document Solutions, Suite 103, 9332 Annapolis Rd., Lanham, MD 20706. E-mail address: *asapmd@verizon.net.* Telephone: (202) 293–7779. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 29, 2004.

By the Board, Chairman Nober.

Vernon A. Williams,

Secretary.

[FR Doc. 04–2273 Filed 2–4–04; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 27590 (Sub-No. 3)]

TTX Company, et al.—Application for Approval of Pooling of Car Service With Respect to Flatcars

AGENCY: Surface Transportation Board, Transportation.

ACTION: Notice of pooling application and request for public comments.

SUMMARY: On January 6, 2004, TTX Company (TTX) and certain participating railroads filed an application to extend for 15 years TTX's flatcar pooling authority, which the Board's predecessor, the Interstate Commerce Commission (ICC), originally granted in 1974, extended in 1989, and extended again in 1994. Unless further extended, TTX's current pooling authority under the ICC's 1994 order will expire on October 1, 2004.

DATES: Any comments on the application must be filed by March 22, 2004. If comments are filed, applicants' rebuttal is due by April 21, 2004. A decision on the merits of the application is due to be issued by September 1, 2004.

ADDRESSES: As required under 49 CFR 1104.3, commenting parties must file with the Board an original and 10 copies (and electronic copies as necessary) of their respective comments. Comments must refer to STB Finance Docket No. 27590 (Sub-No. 3) and be sent to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each comment must be sent to each of applicants' representatives: (1) David L. Meyer, Covington & Burling, 1201 Pennsylvania Avenue, NW., Washington, DC 20004; and (2) Patrick B. Loftus, TTX Company, 101 North Wacker Drive, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 565–1600. (Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.)

SUPPLEMENTARY INFORMATION: TTX and the railroad applicants seek the Board's approval of a 15-year extension of their pooling of flatcar service. Under 49 U.S.C. 11322(a), the Board may approve a pooling agreement if it finds that the proposal: (1) Will be in the interest of better service to the public or of economy of operation, and (2) will not unreasonably restrain competition. The proposed pooling agreement was originally approved by the ICC in *American Rail Box Car Co.—Pooling,* 347 I.C.C. 862 (1974). In 1989, the ICC extended TTX's pooling authority for another five years. *See Trailer Train Co.—Pooling—Car Service,* 5 I.C.C.2d 552 (1989). The ICC last approved TTX's pooling agreement in 1994 for a 10-year term, which expires on October 1, 2004. *See TTX Company et al.—Application for Approval of the Pooling of Car Service With Respect to Flat Cars,* Finance Docket No. 27590 (Sub-No. 2) (ICC served August 31, 1994). The application seeks to extend TTX's authority to continue the flatcar pool under the same pooling agreement—with minor, technical updates—for an additional 15 years.

In addition to TTX, the applicants are:

The Burlington Northern and Santa Fe Railway Company;
CSX Transportation, Inc.;
Florida East Coast Railway Company;
Guilford Rail System;
Grand Trunk Western Railroad Company;
Illinois Central Railroad Company;

The Kansas City Southern Railway Company;
Norfolk Southern Railway Company;
Soo Line Railroad Company;
Union Pacific Railroad Company.

TTX also asks the Board to clarify that the requested pooling authority will encompass changes in TTX's car contracts and other policies that are within the scope of the Pooling Agreement and the extant limitations on TTX's authority to assign and allocate cars, without the need to seek additional advance Board approval.

Copies of the application are on file and may be examined at the offices of the Surface Transportation Board, Room 770, Washington, DC, or may be viewed on, and downloaded from, the Board's Web site at *www.stb.dot.gov.* Copies may also be obtained free of charge by contacting applicants' representative, Michael L. Rosenthal, (202) 662–5582. A copy of this notice will be served on the Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530.

Applicants contend that, because the proposed transaction does not involve any changes in rail operations or service to shippers, no environmental documentation is required, *see* 49 CFR 1105.6(c)(2)(ii), and no historic report is required, *see* 49 CFR 1105.8(b)(2).

Applicants have suggested that comments on the application be due within 60 days of the publication of this notice, with applicants' rebuttal due 45 days thereafter. However, the Board believes that an adjustment to the proposed procedural schedule is in order so that the written record may be developed sooner. Accordingly, comments will be due within 45 days of this notice, and applicants' rebuttal (if necessary) will be due 30 days thereafter. The adopted schedule should provide adequate time for commenting parties and the applicants to present their respective views. As provided in the instructions above, comments must be in writing, must be filed in accordance with 49 CFR 1104.3, and are due by March 22, 2004. Comments must contain the basis for the party's position either in support or opposition, and must contain the name and address of the commenting party. Applicants must be concurrently served with a copy of each comment. Any rebuttal by applicants must be filed with the Board by April 21, 2004.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Filings and Board decisions and notices are available on the Board's Web site at *www.stb.dot.gov.*

Decided: February 2, 2004.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams,

Secretary.

[FR Doc. 04–2433 Filed 2–4–04; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 27, 2004.

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 March 8, 2004 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0732.

Regulation Project Number: LR–236–81 Final (TD 8251).

Type of Review: Extension.

Title: Credit for Increasing Research Activity.

Description: This information is necessary to comply with requirements of Code section 41 (section 44F before change by TRA 1984 and section 30 before change by TRA 1986) which describes the situations in which a taxpayer is entitled to an income tax credit for increases in research activity.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 250.

Estimated Burden Hours Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 63 hours.

Clearance Officer: R. Joseph Durbala (202) 622–3634, Internal Revenue Service, Room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr. (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 04–2458 Filed 2–4–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 30, 2004.

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 March 8, 2004 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0429.

Form Number: IRS Form 4506.

Type of Review: Extension.

Title: Request for Copy or Transcript of Tax Form.

Description: 26 U.S.C. 7513 allows for taxpayers to request a copy of a tax return. Form 4506 is used by a taxpayer to request a copy of a Federal tax form. The information provided will be used for research to locate the tax form and to ensure that the requester is the taxpayer or someone authorized by the taxpayer.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 325,000.

Estimated Burden Hours Respondent/Recordkeeper:

Recordkeeping	0 min.
Learning about the law or the form.	10 min.
Preparing the form	16 min.
Copying, assembling, and sending the form to the IRS.	20 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 260,000 hours.

Clearance Officer: Glenn P. Kirkland (202) 622–3428, Internal Revenue

Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr. (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 04–2459 Filed 2–4–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 30, 2004.

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 March 8, 2004, to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0019.

Form Number: FMS–1133 (Electronic Pre-Printed Information).

Type of Review: Extension.

Title: Claim Against the United States for the Proceeds of a Government Check.

Description: The FMS–1133 form is used to collect information needed to process an individual's claim for non-receipt of proceeds from a government check. Once the information is analyzed, a determination is made and a recommendation is submitted to the program agency to either settle or deny the claim.

Respondents: Individuals or households.

Estimated Number of Respondents: 67,877.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: Other (as needed).

Estimated Total Reporting Burden: 10,482 hours.

Clearance Officer: Jiovannah L. Diggs, (202) 874–7662, Financial Management Service, Administrative Programs Division, Records and Information Management Program, 3700 East West Highway, Room 144, Hyattsville, MD 20782.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building,Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 04–2460 Filed 2–4–04; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request ATE≤January 30, 2004.

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 March 8, 2004, to be assured of consideration.

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0091.

Recordkeeping Requirement ID Numbers: TTB REC 5210/12 and 5210/1.

Type of Review: Extension.

Title: TTB REC 5210/12: Tobacco Products Manufacturers—Notice for Tobacco Products; and *TTB REC 5210/1:* Records of Operations.

Description: Tobacco products manufacturers maintain a record system showing tobacco and tobacco product receipts, production and dispositions which support removals subject to tax; transfers in bond; and inventory records. These records are vital to tax enforcement.

Respondents: Business or other for-profit, farms.

Estimated Number of Recordkeepers: 108.

Estimated Burden Hours Per Recordkeeper: 1 hour.

Estimated Total Recordkeeping Burden: 1 hour.

OMB Number: 1513–0108.

Recordkeeping Requirement ID Numbers: 27 CFR 275.106, 275.110 and 275.121.

Type of Review: Extension.

Title: Recordkeeping for Tobacco products and Cigarette Papers Brought from Puerto Rico to the U.S.

Description: The prescribed records apply to persons who ship tobacco products or cigarette papers or tubes from Puerto Rico to the United States. These records verify that the amount of taxes to be paid and, if required, that the bond is sufficient to cover unpaid liabilities.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 4.

Estimated Burden Hours Per Recordkeeper: 1 hour.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 1 hour.

Clearance Officer: William H. Foster, (202) 927–8210, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G Street, NW., Washington, DC 20005.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 04–2461 Filed 2–4–04; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2001–20

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2001–20, Voluntary Compliance on Alien Withholding Program (''VCAP'').

DATES: Written comments should be received on or before April 5, 2004, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3945, or through the Internet at *CAROL.A.SAVAGE@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Voluntary Compliance on Alien Withholding Program (''VCAP'').

OMB Number: 1545–1735.

Revenue Procedure Number: Revenue Procedure 2001–20.

Abstract: The revenue procedure will improve voluntary compliance of colleges and universities in connection with their obligations to report, withhold and pay taxes due on compensation paid to foreign students and scholars (nonresident aliens). The revenue procedure provides an optional opportunity for colleges and universities which have not fully complied with their tax obligations concerning nonresident aliens to self-audit and come into compliance with applicable reporting and payment requirements.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 495.

Estimated Time Per Respondent: 700 hours.

Estimated Total Annual Burden Hours: 346,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 2, 2004.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 04–2503 Filed 2–4–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8865

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships.

DATES: Written comments should be received on or before April 5, 2004, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3945, or through the Internet at *CAROL.A.SAVAGE@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Return of U.S. Persons With Respect to Certain Foreign Partnerships.

OMB Number: 1545–1668.

Form Number: 8865.

Abstract: The Taxpayer Relief Act of 1997 significantly modified the information reporting requirements with respect to foreign partnerships. The Act made the following three changes: (1) Expanded Code section 6038B to require U.S. persons transferring property to foreign partnerships in certain transactions to report those transfers; (2) expanded Code section 6038 to require certain U.S. partners of controlled foreign partnerships to report information about the partnerships; and (3) modified the reporting required under Code section 6046A with respect to acquisitions and dispositions of foreign partnership interests. Form 8865 is used by U.S. persons to fulfill their reporting obligations under Code sections 6038B, 6038, and 6046A.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, and not-for-profit institutions.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 91 hours, 42 minutes.

Estimated Total Annual Burden Hours: 458,510.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of

information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 30, 2004.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 04–2504 Filed 2–4–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8316

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8316, Information Regarding Request for Refund of Social Security Tax Erroneously Withheld on Wages Received by a Nonresident Alien on an F, J, or M Type Visa.

DATES: Written comments should be received on or before April 5, 2004, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3945, or through the Internet at *CAROL.A.SAVAGE@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Regarding Request for Refund of Social Security Tax Erroneously Withheld on Wages Received by a Nonresident Alien on an F, J, or M Type Visa.

OMB Number: 1545–1862.

Form Number: 8316.

Abstract: Certain foreign students and other nonresident visitors are exempt from FICA tax for services performed as specified in the Immigration and Naturalization Act. Applicants for refund of this FICA tax withheld by their employer must complete Form 8316 to verify that they are entitled to a refund of the FICA, that the employer has not paid back any part of the tax withheld and that the taxpayer has attempted to secure a refund from his/her employer.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals.

Estimated Number of Respondents: 22,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 5,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 30, 2004.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 04–2505 Filed 2–4–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–104691–97]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–104691–97 (TD 8910), Electronic Tip Reports (§§ 31.6053–1 and 31.6053–4).

DATES: Written comments should be received on or before April 5, 2004, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3945, or through the Internet at *CAROL.A.SAVAGE@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Electronic Tip Reports.

OMB Number: 1545–1603.

Regulation Project Number: REG–104691–97.

Abstract: The regulations provide rules authorizing employers to establish electronic systems for use by their tipped employees in reporting tips to their employer. The information will be used by employers to determine the amount of income tax and FICA tax to withhold from the tipped employee's wages.

Current Actions: There are no changes being made to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and not-for-profit institutions.

Estimated Number of Respondents: 300,000.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 600,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 30, 2004.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 04–2506 Filed 2–4–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of amendment to system of records.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552a(e) (4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that VA is amending the system of records currently entitled ''Veterans Health Information Systems and Technology Architecture (VistA) Records—VA'' (79VA19) as set forth in the **Federal Register** 56 FR 6048 and last amended in the **Federal Register** 65 FR 70632–70636. VA is amending the routine uses of records maintained in the system, including categories of users and the purposes of such uses, the policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system, and the system manager(s) and address. VA is republishing the system notice in its entirety.

DATES: Comments on the amendment of this system of records must be received no later than March 8, 2004. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the system will become effective March 8, 2004.

ADDRESSES: Written comments concerning the proposed amended system of records may be submitted by: mail or hand-delivery to Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; or e-mail to *VAregulations@mail.va.gov.* All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Veterans Health Administration (VHA) Privacy Act Officer, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (727) 320–1839.

SUPPLEMENTARY INFORMATION:

Background: In the 1980s, VHA developed an electronic health care architecture called the Decentralized Hospital Computer Program (DHCP) that was comprised of software applications that were integrated into a complete hospital information system primarily for hospital-based activities. DHCP was installed at VA medical facilities to provide comprehensive support for clinical and administrative needs and for VA-wide management information. By 1990, VHA upgraded computer capacity at all medical facilities and implemented software on a national scale that supported integrated health care delivery. In 1996, VHA introduced the Veterans Health Information Systems and Technology Architecture (VistA), a client-server architecture that tied together workstations and personal computers and supported the day-to-day operations at all health care facilities.

The purpose of the system of records is to provide a repository for the administrative information that is used to accomplish the purposes described. The records include information provided by applicants for employment, employees, volunteers, trainees, contractors and subcontractors, consultants, maintenance personnel, students, patients, and information obtained in the course of routine work done. Quality assurance information that is protected by 38 U.S.C. 7311 and 38 CFR 17.500–17.511 is not within the scope of the Privacy Act and, therefore, is not included in this system of records or filed in a manner in which the information may be retrieved by reference to an individual identifier.

Data stored in VistA is used to prepare various management, tracking, and follow-up reports that are used to assist in the management and operation of the health care facility, and the planning and delivery of patient medical care. Data may be used to track and evaluate patient care services; the distribution and utilization of resources; and the performance of vendors and employees. The data may also be used for such purposes as scheduling employees' tours of duty and for scheduling patient treatment services including nursing care, clinic appointments, surveys, diagnostic and therapeutic procedures. Data may also be used to track the ordering, delivery, maintenance and repair of equipment and for follow-up to determine if the actions were accomplished and to evaluate the results.

The routine uses of records maintained in the system, including categories of users and the purposes of such uses are amended, as described below, to enable efficient administration and operation of health care facilities and to assist in the planning and delivery of patient medical care:

- Routine use number one (1) is amended in its entirety. VA must be able to comply with the requirements of agencies charged with enforcing the law and conducting investigations. VA must also be able to provide information to state or local agencies charged with protecting the public's health as set forth in state law. The routine use will be as follows:

On its own initiative, VA may disclose information, except for the names and home addresses of veterans and their dependents, to a Federal, State, local, tribal or foreign agency charged with the responsibility of

investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto. On its own initiative, VA may also disclose the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

• Former routine use two (2) is deleted as procedures have been defined in VHA Handbook 1605.1, Privacy and Release of Information, Paragraph 16, ROI Within VA for Purposes other than Treatment, Payment, and/or Health Care Operation Without Authorization.

• Former routine use three (3) is renumbered to routine use two (2) and amended to remove the phrase ''or at the initiation of the VA'' as, upon internal review, it was found not relevant to the routine use.

• Former routine use four (4) is renumbered as routine use three (3).

• Former routine use five (5) is renumbered to routine use four (4) and amended to remove specific references under 44 U.S.C. The routine use will be as follows:

Disclosure may be made to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of 44 U.S.C.

• Former routine use six (6) is renumbered to routine use five (5) and amended to remove specific references under 28 U.S.C. The routine use will be as follows:

• Disclosure may be made to the Department of Justice and United States attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C.

• Former routine use seven (7) is renumbered to routine use six (6).

• Former routine use eight (8) is renumbered to routine use seven (7) and amended by deleting the text ''disclosure may be made to a Federal, State or local government licensing board and/or to the Federation of State Medical Boards or a similar non-government entity which maintains records concerning individual employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registration necessary to practice an occupation, profession or specialty; in order for the Department to obtain information relevant to a Department decision concerning the hiring, retention or termination of an employee;'' as private health information is not disclosed and the disclosure of information is not required.

• Former routine uses nine (9) and ten (10) are renumbered as routine uses eight (8) and nine (9).

• Former routine use eleven (11) is deleted as it duplicates routine use number one (1) and is no longer necessary.

• Former routine use twelve (12) is renumbered as routine use ten (10).

• Former routine use thirteen (13) is renumbered as routine use eleven (11) and amended to delete the phrase ''VA-appointed'' as it is no longer applicable to the representation of an employee.

• Former routine use fourteen (14) is renumbered as routine use twelve (12) and amended to modify the phrase ''including the Office of the Special Counsel'' to ''and the Office of the Special Counsel'' in order to address organizational changes.

• Former routine uses fifteen (15) through nineteen (19) are renumbered as routine uses thirteen (13) through seventeen (17).

• Former routine use twenty (20) is renumbered as routine use number eighteen (18) and amended to further define disclosure of information to the National Practitioner Data Bank and/or State Licensing Board in the state(s) in which a practitioner is licensed, in which the VA facility is located, and/or in which an act or omission occurred upon which a medical malpractice claim was based when the VA reports information concerning: (1) Any payment for the benefit of a physician, dentist, or other licensed health care practitioner which was made as the result of a settlement or judgment of a claim of medical malpractice if an appropriate determination is made in accordance with agency policy that payment was related to substandard care, professional incompetence or professional misconduct on the part of the individual; (2) a final decision which relates to possible incompetence or improper professional conduct that adversely affects the clinical privileges of a physician or dentist for a period longer than 30 days; or, (3) the acceptance of the surrender of clinical privileges or any restriction of such privileges by a physician or dentist either while under investigation by the health care entity relating to possible incompetence or improper professional conduct, or in return for not conducting such an investigation or proceeding.

• Former routine uses twenty-one through twenty-five (21–25) are renumbered as routine uses nineteen (19) through twenty-three (23).

The Privacy Act permits VA to disclose information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which VA collected the information. In all of the routine use disclosures described above, the recipient of the information will use the information in connection with a matter relating to one of VA's programs, will use the information to provide a benefit to VA, or disclosure is required by law.

Under section 264, subtitle F of Title II of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Public Law 104–191, 100 Stat. 1936, 2033–34 (1996), the United States Department of Health and Human Services (HHS) published a final rule, as amended, establishing Standards for Privacy of Individually-Identifiable Health Information, 45 CFR parts 160 and 164. VHA may not disclose individually-identifiable health information (as defined in HIPAA and the Privacy Rule, 42 U.S.C. 1320(d)(6) and 45 CFR 164.501) pursuant to a routine use unless either: (a) The disclosure is required by law, or (b) the disclosure is also permitted or required by the HHS Privacy Rule. The disclosures of individually-identifiable health information contemplated in the routine uses published in this amended system of records notice are permitted under the Privacy Rule or required by law. However, to also have authority to make such disclosures under the Privacy Act, VA must publish these routine uses. Consequently, VA is publishing these routine uses and is adding a preliminary paragraph to the routine uses portion of the system of records notice stating that any disclosure pursuant to the routine uses in this system of records notice must be either required by law or permitted by the Privacy Rule before VHA may disclose the covered information.

The safeguards section of policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system is amended to address access to file information and how the information is controlled, specifically to address access by remote data users such as Veteran Outreach Centers, Veteran Service Officers (VSO) with power of attorney to assist with claim processing, Veteran Benefits Administration (VBA) Regional Office staff for benefit determination and processing purposes, VA Office of Inspector General (OIG) staff conducting

official audits, investigations at the health care facility, or an OIG office location remote from the health care facility and other authorized individuals.

The system manager(s) and address is amended to reflect organizational changes.

The report of intent to publish an amended system of records and an advance copy of the system notice are being sent to the appropriate Congressional committees and to the Director of Office of Management and Budget (OMB), as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (61 FR 6428), February 20, 1996.

Approved: January 22, 2004.

Anthony J. Principi,

Secretary of Veterans Affairs.

79VA19

SYSTEM NAME:

Veterans Health Information Systems and Technology Architecture (VistA) Records-VA.

SYSTEM LOCATION:

Records are maintained at each VA health care facility (in most cases, back-up computer tape information is stored at off-site locations). Address locations for VA facilities are listed in VA Appendix 1. In addition, information from these records or copies of records may be maintained at the Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC, VA Data Processing Centers, VA Chief Information Officer (CIO) Field Offices, Veterans Integrated Service Network (VISN) Offices, and Employee Education Systems.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records include information concerning current and former employees, applicants for employment, trainees, contractors, sub-contractors, contract personnel, students, providers and consultants, patients and members of their immediate family, volunteers, maintenance personnel, as well as individuals working collaboratively with the VA.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records may include information related to:

1. Workload such as orders entered, verified, and edited (*e.g.*, engineering work orders, doctors' orders for patient care including nursing care, the scheduling and delivery of medications, consultations, radiology, laboratory and other diagnostic and therapeutic examinations); results entered; items checked out and items in use (*e.g.*, library books, keys, x-rays, patient medical records, equipment, supplies, reference materials); work plans entered and the subsequent tracking (*e.g.*, construction projects, engineering work orders and equipment maintenance and repairs assigned to employees and status, duty schedules, work assignments, work requirements); reports of contact with individuals or groups; employees (including volunteers) work performance information (*e.g.*, duties and responsibilities assigned and completed, amount of supplies used, time used, quantity and quality of output, productivity reports, schedules of patients assigned and treatment to be provided);

2. Administrative procedures, duties, and assignments of certain personnel;

3. Computer access authorizations, computer applications available and used, information access attempts, frequency and time of use; identification of the person responsible for, currently assigned, or otherwise engaged in various categories of patient care or support of health care delivery; vehicle registration (motor vehicles and bicycles) and parking space assignments; community and special project participants/attendees (*e.g.*, sports events, concerts, National Wheelchair Games); employee work-related accidents. The record may include identifying information (*e.g.*, name, date of birth, age, sex, social security number, taxpayer identification number); address information (*e.g.*, home and/or mailing address, home telephone number, emergency contact information such as name, address, telephone number, and relationship); information related to training (*e.g.*, security, safety, in-service), education and continuing education (*e.g.*, name and address of schools and dates of attendance, courses attended and scheduled to attend, grades, type of degree, certificate, etc.); information related to military service and status; qualifications for employment (*e.g.*, license, degree, registration or certification, experience); vehicle information (*e.g.*, type make, model, license, and registration number); evaluation of clinical and/or technical skills; services or products purchased (*e.g.*, vendor name and address, details about and/or evaluation of service or product, price, fee, cost, dates purchased and delivered, employee workload, and productivity data); employee work-related injuries (cause, severity, type of injury, body part affected);

4. Financial information, such as service line and clinic budgets, projected and actual costs;

5. Supply information, such as services, materials and equipment ordered;

6. Abstract information (*e.g.*, data warehouses, environmental and epidemiological registries, etc.) is maintained in auxiliary paper and automated records;

7. Electronic messages; and

8. The social security number and universal personal identification number of health care providers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, section 7301(a).

PURPOSE(S):

The records and information may be used for statistical analysis to produce various management, workload tracking and follow-up reports; to track and evaluate the ordering and delivery of equipment, services and patient care; the planning, distribution and utilization of resources; the possession and/or use of equipment or supplies; the performance of vendors, equipment, and employees; and to provide clinical and administrative support to patient medical care. The data may be used for research purposes. The data may be used also for such purposes as assisting in the scheduling of tours of duties and job assignments of employees; the scheduling of patient treatment services, including nursing care, clinic appointments, surgery, diagnostic and therapeutic procedures; the repair and maintenance of equipment and for follow-up to determine that the actions were accomplished and to evaluate the results; the registration of vehicles and the assignment and utilization of parking spaces; to plan, schedule, and maintain rosters of patients, employees and others attending or participating in sports, recreational or other events (*e.g.*, National Wheelchair Games, concerts, picnics); for audits, reviews, and investigations conducted by staff of the health care facility, the Network Directors Office, VA Central Office, and the VA Office of Inspector General (OIG); for quality assurance audits, reviews, investigations and inspections; for law enforcement investigations; and for personnel management, evaluation and employee ratings, and performance evaluations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information

protected by 45 CFR parts 160 and 164, *i.e.*, individually-identifiable health information, and 38 U.S.C. 7332, *i.e.*, medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus, that information cannot be disclosed under a routine use unless there is also specific statutory authority in 38 U.S.C. 7332 and regulatory authority in 45 CFR parts 160 and 164 permitting disclosure.

1. VA may disclose on its own initiative any information in this system, except the names and home addresses of veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On its own initiative, VA may also disclose the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

2. Disclosure may be made to an agency in the executive, legislative, or judicial branch, or the District of Columbia government in response to its request, in connection with the hiring of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the letting of a contract, the issuance of a license, grant, or other benefits by the requesting agency, or the lawful statutory, administrative, or investigative purpose of the agency to the extent that the information is relevant and necessary to the requesting agency's decision.

3. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

4. Disclosure may be made to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of 44 U.S.C.

5. Disclosure may be made to the Department of Justice and United States attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C.

6. Hiring, performance, or other personnel-related information may be disclosed to any facility with which there is or there is proposed to be an affiliation, sharing agreement, contract, or similar arrangement for purposes of establishing, maintaining, or expanding any such relationship.

7. Disclosure may be made to inform a Federal agency, licensing boards or the appropriate non-government entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients receiving medical care in the private sector or from another Federal agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

8. For program review purposes, and the seeking of accreditation and/or certification, disclosure may be made to survey teams of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), College of American Pathologists, American Association of Blood Banks, and similar national accreditation agencies or boards with whom VA has a contract or agreement to conduct such reviews but only to the extent that the information is necessary and relevant to the review.

9. Disclosure may be made to a state or local government entity or national certifying body which has the authority to make decisions concerning the issuance, retention or revocation of licenses, certifications or registrations required to practice a health care profession, when requested in writing by an investigator or supervisory official of the licensing entity or national certifying body for the purpose of making a decision concerning the issuance, retention or revocation of the license, certification or registration of a named health care professional.

10. Disclosure may be made to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

11. Disclosure may be made to the representative of an employee, including all notices, determinations, decisions, or other written communications issued to the employee in connection with an examination ordered by VA under medical evaluation (formerly fitness-for-duty) examination procedures or Department-filed disability retirement procedures.

12. Disclosure may be made to officials of the Merit Systems Protection Board, and the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

13. Disclosure may be made to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discrimination practices, examination of Federal affirmative employment programs, compliance with the Uniform Guidelines of Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

14. Disclosure may be made to the Federal Labor Relations Authority, including its General Counsel, when requested in connection with investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator awards when a question of material fact is raised and matters before the Federal Service Impasses Panel.

15. Disclosure may be made in consideration and selection of employees for incentive awards and other honors and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee awards or honors.

16. Disclosure may be made to consider employees for recognition through administrative and quality step increases and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee recognition.

17. Identifying information such as name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/re-privileging of health care practitioners and at other times as deemed necessary by VA in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/re-privileging, retention or termination of the applicant or employee.

18. Relevant information may be disclosed to the National Practitioner Data Bank and/or State Licensing Board in the state(s) in which a practitioner is licensed, in which the VA facility is located, and/or in which an act or omission occurred upon which a medical malpractice claim was based when VA reports information concerning: (1) Any payment for the benefit of a physician, dentist, or other licensed health care practitioner which was made as the result of a settlement or judgment of a claim of medical malpractice if an appropriate determination is made in accordance with agency policy that payment was related to substandard care, professional incompetence or professional misconduct on the part of the individual; (2) a final decision which relates to possible incompetence or improper professional conduct that adversely affects the clinical privileges of a physician or dentist for a period longer than 30 days; or, (3) the acceptance of the surrender of clinical privileges or any restriction of such privileges by a physician or dentist either while under investigation by the health care entity relating to possible incompetence or improper professional conduct, or in return for not conducting such an investigation or proceeding. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

19. Disclosure of medical record data, excluding name and address, unless name and address is furnished by the requester, may be made to epidemiological and other research facilities for research purposes determined to be necessary and proper, and approved by the Under Secretary for Health.

20. Disclosure of name(s) and address(es) of present or former personnel of the Armed Services, and/or their dependents, may be made to: (a) a Federal department or agency, at the written request of the head or designee of that agency; or (b) directly to a contractor or subcontractor of a Federal department or agency, for the purpose of conducting Federal research necessary to accomplish a statutory purpose of an agency. When disclosure of this information is made directly to a contractor, VA may impose applicable conditions on the department, agency, and/or contractor to ensure the appropriateness of the disclosure to the contractor.

21. The social security number, universal personal identification number and other identifying information of a health care provider may be disclosed to a third party where the third party requires the agency to provide that information before it will pay for medical care provided by VA.

22. Relevant information may be disclosed to individuals, organizations, private or public agencies, etc., with whom VA has a contract or agreement to perform such services as VA may deem practical for the purposes of laws administered by VA, in order for the contractor and/or subcontractor to perform the services of the contract or agreement.

23. Disclosure of relevant health care information may be made to individuals or organizations (private or public) with whom VA has a contract or sharing agreement for the provision of health care, administrative or financial services.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper, microfilm, magnetic tape, disk, or laser optical media. In most cases, copies of back-up computer files are maintained at off-site locations.

RETRIEVABILITY:

Records are retrieved by name, social security number or other assigned identifiers of the individuals on whom they are maintained.

SAFEGUARDS:

1. Access to VA working and storage areas is restricted to VA employees on a ''need-to-know'' basis. Strict control measures are enforced to ensure that disclosure to these individuals is also based on this same principle. Generally, VA file areas are locked after normal duty hours and the facilities are protected from outside access by the Federal Protective Service or other security personnel.

2. Access to computer rooms at health care facilities is generally limited by appropriate locking devices and restricted to authorized VA employees and vendor personnel. Automated Data Processing (ADP) peripheral devices are placed in secure areas (areas that are locked or have limited access) or are otherwise protected. Information in VistA may be accessed by authorized VA employees. Access to file information is controlled at two levels. The systems recognize authorized employees by series of individually unique passwords/codes as a part of each data message, and the employees are limited to only that information in the file which is needed in the performance of their official duties. Information that is downloaded from VistA and maintained on personal computers is afforded similar storage and access protections as the data that is maintained in the original files. Access to information stored on automated storage media at other VA locations is controlled by individually unique passwords/codes. Access by remote data users such as Veteran Outreach Centers, Veteran Service Officers (VSO) with power of attorney to assist with claim processing, Veteran Benefits Administration (VBA) Regional Office staff for benefit determination and processing purposes, OIG staff conducting official audits, investigations or inspections at the health care facility, or an OIG office location remote from the health care facility and other authorized individuals is controlled in the same manner.

3. Information downloaded from VistA and maintained by the OIG headquarters and Field Offices on automated storage media is secured in storage areas for facilities to which only OIG staff have access. Paper documents are similarly secured. Access to paper documents and information on automated storage media is limited to OIG employees who have a need for the information in the performance of their official duties. Access to information stored on automated storage media is controlled by individually unique passwords/codes.

RETENTION AND DISPOSAL:

Paper records and information stored on electronic storage media are maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

The official responsible for policies and procedures is the Director, Health Systems Design and Development (192), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. The local official responsible for maintaining the system is the Director of the facility where the individual is or was associated.

NOTIFICATION PROCEDURE:

Individuals who wish to determine whether this system of records contains information about them should contact the VA facility location at which they are or were employed or made or have contact. Inquiries should include the person's full name, social security number, dates of employment, date(s) of contact, and return address.

RECORD ACCESS PROCEDURE:

Individuals seeking information regarding access to and contesting of

records in this system may write, call or visit the VA facility location where they are or were employed or made contact.

CONTESTING RECORD PROCEDURES:

(*See* Record Access Procedures, above.)

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by the individual, supervisors, other employees, personnel records, or obtained from their interaction with the system.

[FR Doc. 04–2405 Filed 2–4–04; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 69, No. 24

Thursday, February 5, 2004

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 02–106–1]

Importation of Fruits and Vegetables

Correction

In proposed rule document 03–31202 beginning on page 70448 in the issue of Thursday, December 18, 2003, make the following corrections:

§319.56–2t [Corrected]

1. On page 70458, in the table, in §319.56–2t (a), under the column heading, ''Common name'', in the second entry, ''German'' should read ''German chamomile''.

2. On the same page, in the same table, in the same section, under the column heading ''Botanical name'', in the second entry, ''*Matricaria chamomile*'' should read ''*Matricaria*''.

3. On page 70460, in the table, in the same section, under the column heading ''Plant part(s)'', in the 12th entry from the bottom, ''Leaf and stem.'' should read ''Fruit.''.

4. On the same page, in the same table, in the same section, in the last column titled, ''Additional restrictions (see paragraph (b) of this section.), 12 lines from the bottom, insert ''(b)(5)(ii) ''.

[FR Doc. C3–31202 Filed 2–4–04; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 03–067–1]

Ports of Entry for Certain Plants and Plant Products

Correction

In rule document 03–31203 beginning on page 70421 in the issue of Thursday, December 18, 2003, make the following corrections:

§319.37– 14 [Corrected]

1. On page 70423, in the second column, in §319.37–14(b), under the heading **List of Ports of Entry**, under **Georgia**, ''Atlanta'' should read ''*Atlanta ''.

2. On the same page, in the same column, in the same section, under the same heading, under **Guam**, ''Agana '' should read ''*Agana ''.

[FR Doc. C3–31203 Filed 2–4–04; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
February 5, 2004

Part II

The President

Proclamation 7755—National Consumer Protection Week, 2004

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Presidential Documents

Title 3—

The President

Proclamation 7755 of February 2, 2004

National Consumer Protection Week, 2004

By the President of the United States of America

A Proclamation

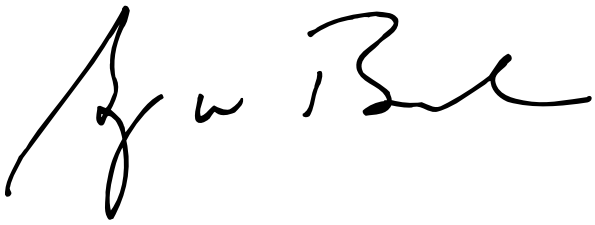
Every day, America's consumers conduct millions of financial transactions. During National Consumer Protection Week, we recognize those who help to safeguard our citizens from consumer fraud, and we encourage all Americans to be informed consumers. This year's theme, ''Financial Literacy: Earning a Lifetime of Dividends,'' highlights the importance of financial education to consumer protection.

The Federal Government provides many educational resources and programs to help protect Americans against fraud by giving them information about their options in the marketplace. The Federal Trade Commission and more than 100 other Federal agencies have collaborated on a website, www.consumer.gov, which provides helpful information ranging from how credit ratings work to how to buy a new car. The Department of the Treasury has also established an Office of Financial Education to oversee inter agency efforts to coordinate and expand financial education initiatives.

In addition, my Administration is working to expand financial literacy for potential homeowners. We have doubled the funds for housing and financial counseling services, including those run by faith-based and community groups, and we are distributing millions of dollars in grants to national, State, and local organizations that promote home buyer education and counseling. The Department of Housing and Urban Development is also collaborating with the Federal Deposit Insurance Corporation to expand the ''Money Smart'' financial education program in public housing. Education about the home-buying process not only protects our citizens from consumer fraud, but also empowers them to achieve their dreams.

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 February 1 through February 7, 2004, as National Consumer Protection Week. I call upon government officials, industry leaders, and consumer advocates to provide consumers with information about the lifetime benefits of financial literacy, and I encourage all citizens to take advantage of the resources that can help them become responsible consumers, savers, and investors.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of February, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred and twenty-eighth.



[FR Doc. 04–2667
Filed 2–4–04; 10:12 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.

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