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Presidential Documents

Title 3—

The President

Proclamation 7641 of January 17, 2003

To Modify Rules of Origin Under the North American Free Trade Agreement

By the President of the United States of America

A Proclamation

1. Presidential Proclamation 6641 of December 15, 1993, implemented the North American Free Trade Agreement (the ''NAFTA'') with respect to the United States and, pursuant to the North American Free Trade Agreement Implementation Act (the ''NAFTA Implementation Act''), incorporated in the Harmonized Tariff Schedule of the United States (the ''HTS'') the tariff modifications and rules of origin necessary or appropriate to carry out the NAFTA.

2. Section 202 of the NAFTA Implementation Act provides rules for determining whether goods imported into the United States originate in the territory of a NAFTA party and thus are eligible for the tariff and other treatment contemplated under the NAFTA. Section 202(q) of the NAFTA Implementation Act (19 U.S.C. 3332(q)) authorizes the President to proclaim, as a part of the HTS, the rules of origin set out in the NAFTA and to proclaim modifications to such previously proclaimed rules of origin, subject to the consultation and layover requirements of section 103(a) of the NAFTA Implementation Act (19 U.S.C. 3313(a)).

3. I have determined that the modifications to the HTS proclaimed in this proclamation pursuant to sections 201 and 202 of the NAFTA Implementation Act are appropriate. For goods of Mexico, I have decided that the effective date of the modifications shall be determined by the United States Trade Representative (USTR).

4. Section 604 of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

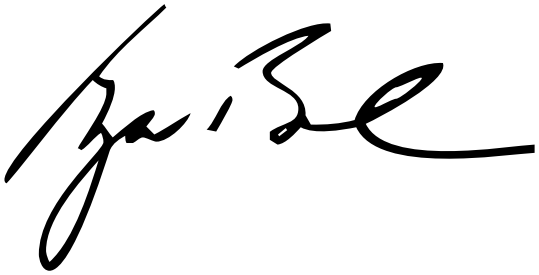
NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including section 604 of the 1974 Act, section 202 of the NAFTA Implementation Act, and section 301 of title 3, United States Code, do hereby proclaim:

(1) In order to modify the rules of origin under the NAFTA, general note 12 to the HTS is modified as provided in the Annex to this proclamation.

(2) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(3) The modifications made by the Annex to this proclamation shall be effective with respect to goods of Canada that are entered, or withdrawn from warehouse for consumption, on or after January 1, 2003. The modifications made by such Annex shall be effective with respect to goods of Mexico that are entered, or withdrawn from warehouse for consumption, on or after a date to be announced in the **Federal Register** by the USTR.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of January, in the year of our Lord two thousand three, and of the Independence of the United States of America the two hundred and twenty-seventh.



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ANNEX

MODIFICATIONS TO THE RULES OF ORIGIN FOR THE NAFTA

Effective with respect to goods of Canada entered, or withdrawn from warehouse for consumption, on or after January 1, 2003, and to goods of Mexico entered, or withdrawn from warehouse for consumption, on or after a date to be announced in the Federal Register by the USTR, general note 12(t) is modified as follows:

1. Tariff classification rule (TCR) 7 for chapter 22 is deleted and the following new TCRs are inserted in lieu thereof:

"7. A change to headings 2203 through 2207 from any heading outside that group, except from tariff items 2106.90.12, 2106.90.15 or 2106.90.18 or headings 2208 through 2209.

8. A change to subheading 2208.20 from any other heading, except from tariff items 2106.90.12, 2106.90.15 or 2106.90.18 or headings 2203 through 2207 or 2209.

9. No required change in tariff classification to subheadings 2208.30 through 2208.70, provided that the non-originating alcoholic ingredients constitute no more than 10 percent of the alcoholic content of the good by volume.

10. A change to subheading 2208.90 from any other heading, except from tariff items 2106.90.12, 2106.90.15 or 2106.90.18 or headings 2203 through 2207 or 2209.

11. A change to heading 2209 from any other heading, except from tariff items 2106.90.12, 2106.90.15 or 2106.90.18 or headings 2203 through 2208."

2. The following new chapter rule is inserted immediately below the side heading "Chapter 27":

"**Chapter rule:** For the purposes of heading 2710, the following processes confer origin:

(a) Atmospheric distillation–a separation process in which petroleum oils are converted, in a distillation tower, into fractions according to boiling point and the vapor then condensed into different liquefied fractions. Liquefied petroleum gas, naphtha, gasoline, kerosene, diesel/heating oil, light gas oils and lubricating oil are produced from petroleum distillation;

(b) Vacuum distillation–distillation at a pressure below atmospheric but not so low that it would be classed as molecular distillation. Vacuum distillation is useful for distilling high-boiling and heat-sensitive materials such as heavy distillates in petroleum oils to produce light to heavy vacuum gas oils and residuum. In some refineries gas oils may be further processed into lubricating oils;

(c) Catalytic hydroprocessing–the cracking and/or treating of petroleum oils with hydrogen at high temperature and under pressure, in the presence of special catalysts. Catalytic hydroprocessing includes hydrocracking and hydrotreating;

(d) Reforming (catalytic reforming)–the rearrangement of molecules in a naphtha boiling range material to form higher octane aromatics (i.e., improved antiknock quality at the expense of gasoline yield). A main product is catalytic reformate, a blend component for gasoline. Hydrogen is another by-product;

(e) Alkylation–a process whereby a high-octane blending component for gasolines is derived from catalytic combination of an isoparaffin and an olefin;

(f) Cracking–a refining process involving decomposition and molecular recombination of organic compounds, especially hydrocarbons obtained by means of heat, to form molecules suitable for motor fuels, monomers, petrochemicals, etc.:

(i) Thermal cracking–exposes the distillate to temperatures of approximately 540° C to 650° C for varying periods of time. Process produces modest yields of gasoline and higher yields of residual products for fuel oil blending;

(ii) Catalytic cracking–hydrocarbon vapors are passed at approximately 400° C over a metallic catalyst (e.g., silica-alumina or platinum); the complex recombinations (alkylation, polymerization, isomerization, etc.) occur within seconds to yield high-octane gasoline. Process yields less residual oils and light gases than thermal cracking;

(g) Coking–a thermal cracking process for the conversion of heavy low-grade products, such as reduced crude, straight run pitch, cracked tars and shale oil, into solid coke (carbon) and lower boiling hydrocarbon products which are suitable as feed for other refinery units for conversion into lighter products; or

(h) Isomerization–the refinery process of converting petroleum compounds into their isomers."

3. TCR 4 for chapter 27 is deleted and the following new TCRs are inserted in lieu thereof:

"4. (A) A change to heading 2710 from any other heading, except from headings 2711 through 2715; or

(B) Production of any good of heading 2710 as the result of atmospheric distillation, vacuum distillation, catalytic hydroprocessing, catalytic reforming, alkylation, catalytic cracking, thermal cracking, coking or isomerization.

4A. A change to headings 2711 through 2715 from any heading outside that group, except from heading 2710."

4. TCRs 8 through 10, inclusive, for chapter 29 are deleted and the following new TCRs are inserted in lieu thereof:

"8. A change to subheadings 2905.11 through 2905.49 from any other subheading, including another subheading within that group."

5. TCR 2 for chapter 71 is deleted and the following new TCR is inserted in lieu thereof:

"2. A change to headings 7113 through 7118 from any heading outside that group."

6. TCR 69 to chapter 85 is deleted and the following new TCR is inserted in lieu thereof:

"69. (A) A change to subheading 8518.30 from any other heading; or

(B) A change to subheading 8518.30 from subheadings 8518.10, 8518.29 or 8518.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

7. TCRs 14 and 15 to chapter 87 are deleted and the following new TCRs are inserted in lieu thereof:

"14. A change to tariff items 8706.00.03 or 8706.00.15 from any other heading, except from subheadings 8708.50 or 8708.60, provided there is a regional value content of not less than 50 percent under the net cost method.

15. A change to tariff items 8706.00.05, 8706.00.25, 8706.00.30 or 8706.00.50 from any other heading, except from subheadings 8708.50 or 8708.60, provided there is a regional value content of not less than 50 percent under the net cost method."

8. TCRs 24, 24A and 24B for chapter 90 are deleted and the following new TCRs are inserted in lieu thereof:

"24. A change to subheadings 9009.91 through 9009.93 from any subheading outside that group, except from tariff item 9009.99.80.

24A. A change to tariff item 9009.99.40 from subheadings 9009.91, 9009.92 or 9009.93, tariff item 9009.99.80 or any other heading, provided that at least one of the components of such assembly named in chapter rule 3 to chapter 90 is originating.

24B. A change to subheading 9009.99 from any other subheading."

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Presidential Documents

Proclamation 7642 of January 17, 2003

Martin Luther King, Jr., Federal Holiday, 2003

By the President of the United States of America

A Proclamation

Dr. Martin Luther King, Jr., served as a voice of conscience for our Nation, and his words and actions continue to inspire courage, humility, and compassion. As a visionary leader of the civil rights movement, Dr. King helped to advance human dignity by working peacefully to resolve racial conflict through speeches, marches, and countless nonviolent activities that helped our Nation recognize the importance of upholding fully our founding ideals of equality, tolerance, and justice for all. Dr. King's enduring contributions to America remind us and countless others around the world that people should ''. . . not be judged by the color of their skin but by content of their character.'' He also taught us that lasting achievement in life comes through sacrifice and service. His devotion to helping others reflected the true spirit of service and citizenship, and his example continues to motivate individuals to serve causes greater than themselves.

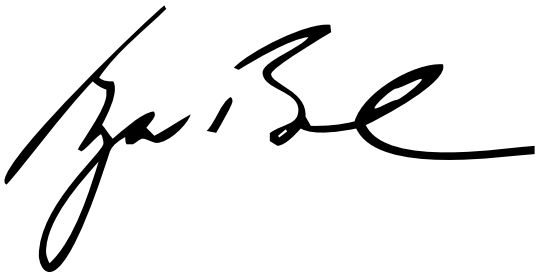
Dr. King wrote that ''Injustice anywhere is a threat to justice everywhere.'' As Americans celebrate the 18th national commemoration of the life and legacy of this great leader, we recognize the lasting truth of his words and his legacy, and we renew our commitment to the principles of justice, equality, opportunity, and optimism that Dr. King espoused and exemplified.

As we honor Dr. King's accomplishments, we pledge to work for a Nation in which all people of every race realize the promise of America. No government policy can put hope in people's hearts or a sense of purpose in people's lives; but we can and will continue to support efforts that seek to secure a Nation of dignity, liberty, and compassion.

To achieve this goal, our Nation must work to ensure that all American children have an equal chance to succeed and reach their full potential. One year ago this month, our country set a bold new course in public education with the passage of the No Child Left Behind Act, ushering in an era of accountability, local control, and high standards. This Act affirmed our faith in the wisdom of parents and communities and our fundamental belief in the promise of every child. Across America, States and school districts are working diligently to implement reforms called for by this important legislation, which will produce better results for all of our students. My Administration is committed to these efforts, and I will continue working with the Congress to enact reforms and provide support to help build the mind and character of every child from every background in every part of America. By working together to advance Dr. King's ideals of equality and acceptance, we can achieve his dream of a Nation united in understanding, defined in promise, and guided by hope.

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 Monday, January 20, 2003, as the Martin Luther King, Jr., Federal Holiday. I encourage all Americans to observe this day with appropriate civic, community, and service programs and activities in honor of Dr. King's life and legacy.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of January, in the year of our Lord two thousand three, and of the Independence of the United States of America the two hundred and twenty-seventh.



[FR Doc. 03–1659
Filed 1–22–03; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register

Vol. 68, No. 15

Thursday, January 23, 2003

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–49–AD; Amendment 39–13020; AD 2003–02–04]

RIN 2120–AA64

Airworthiness Directives; CFM International CFM56–5 and –5B Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to CFM International CFM56–5 and –5B series turbofan engines. This amendment requires the establishment of an exhaust gas temperature (EGT) baseline and trend monitoring using the System for Analysis of Gas Turbine Engines (SAGE), or equivalent, as an option to EGT harness replacement, and if necessary, replacement of certain EGT harnesses and EGT couplings as soon as a slow and continuous EGT drift downward is noticed after the effective date of this AD. This amendment is prompted by reports of erroneous EGT readings. The actions specified by this AD are intended to prevent unexpected deterioration of critical rotating engine parts due to higher than desired engine operating EGT's.

DATES: Effective February 27, 2003. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 27, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2800; fax (513) 552–2816. This information may be examined, by appointment, at the Federal Aviation Administration (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: James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7152; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to CFM International CFM56–5, –5A, and –5B series turbofan engines was published in the **Federal Register** on June 13, 2002 (67 FR 40626). That action proposed to require establishment of an exhaust gas temperature (EGT) baseline and trend monitoring using the System for Analysis of Gas Turbine Engines (SAGE), or equivalent, as an option to EGT harness and coupling replacement, and if necessary, replacement of certain EGT harnesses and EGT couplings as soon as a slow and continuous EGT drift downward is noticed after the effective date of this AD. These actions must be done in accordance with CFM International service bulletins CFM56–5 S/B 77–0020, dated March 4, 2002, and CFM56–5B S/B 77–0008, dated March 4, 2002.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Add a Compliance Time

Four commenters request that 100 to 250 flight hours be allowed to replace the EGT harness after it has been determined that EGT harness hardware is defective. The commenters state that the NPRM implies that compliance is required immediately because it does not prescribe a set compliance time.

The FAA agrees. Immediate compliance is unnecessary. The FAA has determined that two to three weeks, or 100 flight hours are the maximum reasonable compliance times after it has been determined that the EGT harness components are faulty. The final rule is revised to reflect this change.

Change Determination of an Unsafe Condition and Proposed Actions Statement

One commenter requests a change to the FAA's Determination of an Unsafe Condition and Proposed Actions statement. The commenter requests that '' * * * EGT harnesses manufactured between September 1998 and July 2000 * * *'' be replaced with ''* * * EGT harnesses manufactured between September 1998 and December 2001 * * *''. The requested change is the result of updated information from the manufacturer.

The FAA agrees. The change includes manufacturing dates for the entire population of parts. However, the FAA's Determination of an Unsafe Condition and Proposed Actions section in the NRPM preamble does not appear in the final rule.

Remove –5A Model

One commenter requests the removal of the –5A model from the AD, the FAA's Determination of an Unsafe Condition and Proposed Actions, and the Compliance section. The –5A model should not be listed as an engine model type certificate configuration.

The FAA agrees. The –5A model is removed from the final rule.

Increase Replacement Time

The same commenter requests an increase in replacement time of parts not being trend monitored from 250 hours to 500 hours. The commenter states that this would follow the manufacturer's recommended replacement time and be consistent with current Airbus documentation (A check).

The FAA agrees.The final rule reflects this change.

Increase Amount of Allowable Temperature Change

Four commenters request an increase in the amount of allowable temperature change during trend monitoring from 10°C to 20°C or 30°C. Based on experience reported from several operators who use SAGE trend monitoring, a 10°C shift from baseline may not be enough to detect a fault by EGT readings.

The FAA agrees. The final rule reflects this change.

Economic Analysis Recommendations

One commenter requests that the Economic Analysis be changed to more accurately reflect the number of engines affected and associated cost. The commenter states that the NPRM did not accurately account for the number of affected engines per the service bulletins.

The FAA agrees that the service document and NPRM do not agree. The service bulletins did not account for the entire population of suspect parts. However, the spare parts listed in CFM International service bulletins CFM56–5 S/B 77–0020, dated March 4, 2002, and CFM56–5B S/B 77–0008, dated March 4, 2002, are more critical than the remaining population because they will be installed on engines with lower EGT margins. The number of affected engines worldwide remains the same as the NPRM. The number of U.S. operated engines requires a change in the final rule.

Another commenter requests that the economic analysis be changed to reflect work required to determine the serial numbers of the parts. The commenter states that an additional two hours per engine or a total of 520 person-hours of work, will be required for one operator to determine the serial numbers of EGT harnesses and couplings.

The FAA does not agree. Research of logbooks and paperwork are not used to determine the economic analysis figure.

Another commenter requests a change to the economic analysis to reflect an additional 3 person hours for replacement time. The commenter states that it will take more time to accomplish replacment than stated in the NPRM.

The FAA partially agrees. Most of the work could be done during scheduled maintenance (the FAA has attempted to facilitate this in the AD), which would provide an opportunity to remove and replace hardware, when it is already exposed. Some operators indicate that their current system will not allow this advantage consistently; however, per accepted FAA practice, the figure is based on replacement of accessible hardware. No change is required in the final rule.

Engines Which Have Accumulated More Than 3,000 Flight Hours

One commenter states that engines which have accumulated more than 3,000 flight hours since part installation are not defective. The commenter believes that this problem exhibits infant mortality. If false readings are not registered after 3,000 hours, parts are not defective. The commenter asks that the rule be changed accordingly.

The FAA agrees. The final rule reflects this change.

Allow Two Week Waiting Period for Failure Confirmation

One commenter requests that the AD provide for a two week waiting period after the temperature shift of 20°C in order to confirm that an EGT harness failure is the cause and not some other anomaly.

The FAA partially agrees. Sufficient evidence must be provided to assure that a shift in EGT reading is caused by defective EGT hardware/harnesses, and not some anomaly. However, a 30°C shift will be the criteria, not 10°C or 20°C. This should provide sufficient margin to assure that the reading does not indicate some other cause.

AD Not Needed

One commenter states that an AD is not needed for this problem. The commenter feels that current industry practice will suffice.

The FAA does not agree. Industry practice is not mandatory; therefore, there is no requirement for all operators to comply.

Specify Terminating Action

Two commenters state that the NPRM does not specify any terminating action and request that the FAA specify a terminating action.

The FAA agrees. Terminating action is included in the final rule.

Reidentify Reworked Harnesses

One commenter requests that the manufacturer reidentify reworked harnesses for traceability.

The FAA agrees. The manufacturer has added the letter ''W'' following the part serial number to reidentify reworked harnesses and couplings. The addition of the letter ''W'' following the part serial number is addressed in the final rule in (a)(3).

Monitoring Shifts From the Current EGT Trend

One commenter requests monitoring shifts from the current EGT trend rather than an arbitrary baseline. As engines degrade, there may not be an appreciable change in other parameters but normal (within 10°C) degradation in EGT, forcing unnecessary removal.

The FAA agrees. The final rule reflects this change.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Economic Analysis

There are approximately 886 CFM International CFM56–5 and –5B series turbofan engines of the affected design in the worldwide fleet. The FAA estimates that 562 engines installed on airplanes of U.S. registry would be affected by this AD. The FAA also estimates that it would take approximately one work hour per engine to do the actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $15,645 per engine. Based on these figures, the total cost of the AD on U.S. operators is estimated to be $8,826,210. CFMI has indicated that this figure may be reduced depending upon warranty agreements.

Regulatory Analysis

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under 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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–02–04 CFM International: Amendment 39–13020. Docket No. 2001–NE–49–AD.

Applicability

This airworthiness directive (AD) is applicable to CFM International CFM56–5 and –5B series turbofan engines that have an EGT upper harness part number (P/N) CA170–00, with a serial number (SN) of YC021674 or lower, or an EGT lower harness P/N CA171–00, with a SN of YC026641 or lower, or an EGT coupling P/N CA172–02 with a SN of YC166736 or lower. These engines are installed on, but not limited to Airbus Industrie A318, A319, A320 and A321 airplanes.

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

Compliance

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

To prevent unexpected deterioration of critical rotating engine parts due to higher than desired engine operating exhaust gas temperatures (EGT's), do the following:

(a) If you have an EGT upper harness, part number (P/N) CA170–00, with serial number (SN) YC021675 or higher, an EGT lower harness, P/N CA171–00, with SN YC026642 or higher, and an EGT coupling, P/N CA172–02, with S/N YC166737 or higher, no further action is required.

(b) For affected EGT harnesses and EGT couplings, with less than 3,000 engine flight hours since installation, do the following:

(1) Replace affected EGT harnesses and EGT couplings, not being trend monitored, with serviceable parts within 500 flight hours after the effective date of this AD, or,

(2) After the effective date of this AD, review the smooth data EGT trend via the System for Analysis of Gas Turbine Engines (SAGE), or equivalent, since the affected components were first installed on the current engine. This trend monitoring must continue for the affected EGT harnesses and couplings to ensure that the system does not show a minimum of 30°C downward (*i.e.* cooler) indication, or more, without a corresponding change in other associated engine parameters such as N1 (LPT rotor speed), N2 (HPT rotor speed), and fuel flow. Provided that there is sufficient, actual EGT margin to do so, replace the EGT harnesses and couplings within 100 flight hours after they have been determined to be defective. Continue to monitor the EGT indications for 3,000 engine flight hours since the first installation on the current engine.

(3) If a harness or coupling has a serial number that is followed by the letter ''W'', no further action is required.

Terminating Action

(c) Any of the following three conditions constitute terminating action for the trend monitoring requirements specified in paragraph (b)(2) of this AD:

(1) Replacing a harness and coupling with a serviceable part, or

(2) Replacing a harness and coupling with a harness and coupling that has a letter ''W'' following the SN, or

(3) Accumulating 3,000 engine flight hours on a harness and coupling.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

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

Documents That Have Been Incorporated by Reference

(f) The actions must be done in accordance with the following CFM International service bulletins:

Document No.	Pages	Revision	Date
CFM56–5 S/B 77–0020 Total pages: 9	All	Original	Mar. 4, 2002.
CFM56–5B S/B 77–0008 Total pages: 9	All	Original	Mar. 4, 2002.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2800; fax (513) 552–2816. Copies may be inspected 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.

Effective Date

(g) This amendment becomes effective on February 27, 2003.

Issued in Burlington, Massachusetts, on January 13, 2003.

Francis A. Favara,

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

[FR Doc. 03–1181 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2002–14110; Airspace Docket No. 02–AEA–23]

RIN 2120–AA66

Change of Controlling Agency for Restricted Areas R–6601 Fort A.P. Hill, VA; and R–6608A, R–6608B, and R–6608C, Quantico, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the controlling agency for Restricted Area R–6601, Fort A.P. Hill, VA, from ''FAA, Richmond ATCT,'' to ''FAA, Potomac Approach''; and the controlling agency for Restricted Areas R–6608A, R–6608B, and R–6608C, Quantico, VA, from ''FAA, Dulles ATCT,'' to ''FAA, Potomac Approach.'' This change is needed due to the airspace realignments associated with the establishment of the Potomac Consolidated Terminal Radar Approach Control (TRACON) facility. The new Potomac TRACON will assume air traffic control (ATC) responsibility for the airspace encompassing these restricted areas. This is only an administrative change to reflect the name of the proper controlling ATC facility. The change will not affect the current restricted area boundaries, altitudes, time of designation, or the activities conducted within the areas.

EFFECTIVE DATE: 0901 UTC, February 20, 2003.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, 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:

Background

The commissioning of the new Potomac TRACON will consolidate several air traffic facilities that currently provide ATC service in the greater Washington, DC, area. This consolidation includes two facilities (*i.e.*, Dulles Airport Traffic Control Tower (ATCT) and Richmond ATCT) that are currently designated as the controlling agencies for Restricted Areas R–6601, R–6608A, R–6608B, and R–6608C. With Potomac TRACON assuming responsibility for the airspace encompassing these restricted areas, the FAA is taking action to change the name of the controlling agency to ''Potomac Approach.''

The Rule

This action amends 14 CFR part 73 by changing the name of the controlling agency for Restricted Area R–6601, Fort A.P. Hill, VA, from ''FAA, Richmond ATCT'' to ''FAA, Potomac Approach.'' In addition, this action changes the name of the controlling agency for Restricted Areas R–6608A, R–6608B, and R–6608C, Quantico, VA, from ''FAA, Dulles ATCT'' to ''FAA, Potomac Approach.'' These administrative changes will not alter the boundaries, altitudes, time of designation, or activities conducted within the restricted areas; therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Section 73.66 of part 73 was republished in FAA Order 7400.8K, dated September 26, 2002.

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

Environmental Review

This action is a minor administrative change to amend the designated controlling agency of existing restricted areas. There are no changes to air traffic procedures or routes as a result of this action. Therefore, this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts,'' and the National Environmental Policy Act of 1969.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

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

PART 73—SPECIAL USE AIRSPACE

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

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

§ 73.66 [Amended]

2. § 73.66 is amended as follows:

* * * * *

R–6601 Fort A.P. Hill, VA [Amended]

By removing ''Controlling agency. FAA, Richmond ATCT,'' and substituting ''Controlling agency. FAA, Potomac Approach'' in its place.

* * * * *

R–6608A Quantico, VA [Amended]

By removing ''Controlling agency. FAA, Dulles ATCT'' and substituting ''Controlling agency. FAA, Potomac Approach'' in its place.

R–6608B Quantico, VA [Amended]

By removing ''Controlling agency. FAA, Dulles ATCT'' and substituting ''Controlling agency. FAA, Potomac Approach'' in its place.

R–6608C Quantico, VA [Amended]

By removing ''Controlling agency. FAA, Dulles ATCT'' and substituting ''Controlling agency. FAA, Potomac Approach'' in its place.

* * * * *

Issued in Washington, DC, on January 15, 2003.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 03–1479 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2002–14163; Airspace Docket No. 02–AWP–11]

RIN 2120–AA66

Amendment to Using Agency for Restricted Area 2301E, Ajo East, AZ; Restricted Area 2304, Gila Bend, AZ; and Restricted Area 2305, Gila Bend, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the using agency of restricted area 2301E (R–2301E), East Ajo AZ; R–2304, Gila Bend AZ; and R–2305, Gila Bend AZ, from ''US Air Force, 58th Fighter Wing, Luke AFB, AZ,'' to ''U.S.A.F., 56th Fighter Wing, Luke AFB, AZ.'' The FAA is taking this action in response to a request from the United States Air Force (USAF) to reflect an administrative change of responsibility for the restricted areas. There are no changes to the boundaries; designated altitudes; time of designation; or activities conducted within the affected restricted areas.

EFFECTIVE DATE: 0901 UTC, May 15, 2003.

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:

The Rule

This amendment to 14 Code of Federal Regulations (CFR) part 73 changes the using agency of R–2301E, East Ajo, AZ; R–2304, Gila Bend, AZ; and R–2305, Gila Bend, AZ. On November 8, 2002, the United States Air Force requested that the FAA change the using agency for R–2301E, R–2304, and R–2305, from ''US Air Force, 58th Fighter Wing, Luke AFB, AZ,'' to ''US Air Force, 56th Fighter Wing, Luke AFB, AZ.'' This action addresses that request. This is an administrative change and does not affect the boundaries; designated altitudes; or activities conducted within the restricted areas. Therefore, notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

Section 73.48 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8K dated September 26, 2002.

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

Environmental Review

The FAA 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 73

Airspace, Navigation (air).

Adoption of the Amendment

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

PART 73—SPECIAL USE AIRSPACE

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

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

§ 73.23 [Amended]

2. § 73.23 is amended as follows:

* * * * *

R–2301E [Amended]

By removing the words ''Using agency. U.S. Air Force, 58th Fighter Wing, Luke AFB, AZ,'' and inserting the words ''Using agency. U.S. Air Force, 56th Fighter Wing, Luke AFB, AZ.''

* * * * *

R–2304 [Amended]

By removing the words ''Using agency. U.S. Air Force, 58th Fighter Wing, Luke AFB, AZ,'' and inserting the words ''Using agency. U.S. Air Force, 56th Fighter Wing, Luke AFB, AZ.''

R–2305 [Amended]

By removing the words by removing the words ''Using agency. U.S. Air Force, 58th Fighter Wing, Luke AFB, AZ,'' and inserting the words ''Using agency. U.S. Air Force, 56th Fighter Wing, Luke AFB, AZ.''

* * * * *

Issued in Washington, DC, on January 16, 2003.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 03–1477 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–13–P

INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

Electronic Filing Procedures

AGENCY: International Trade Commission.

ACTION: Partial waiver of final rule, notice of public demonstrations, and effective date of handbook.

SUMMARY: The United States International Trade Commission (Commission) hereby gives notice that its Electronic Document Information System (EDIS–II) will be available for electronic filing, and other uses such as search and retrieval on January 23, 2003. The effective date of the Handbook on Electronic Filing Procedures (Handbook), published in the notices section at 67 FR 68168, Nov. 8, 2002, is January 23, 2003. To assist party representatives in learning how to use EDIS–II, the Commission will hold two public demonstrations of the system on January 30, 2003. The first session will be at 10 a.m, and the second session will be at 2 p.m. In addition, the Commission has determined to waive the requirement in the Commission's rules of practice and procedure (rules) that paper filers must complete and print out an on-line cover sheet for submission with their filings. Instead, paper filers have the option of completing and submitting a paper copy of the cover sheet to the Secretary with their filings.

DATES: The Handbook and the waiver of a requirement in 19 CFR 201.8(g) are effective January 23, 2003.

The public demonstrations will be held on January 30, 2003, at 10 a.m. and 2 p.m.

ADDRESSES: The public demonstration will be held in the Main Hearing Room (Room 101) at the Commission, located at 500 E Street, SW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Irene H. Chen, Esq., Office of the General Counsel, United States International Trade Commission, telephone 202–205–3112. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202–205–1810.

General information concerning the Commission may also be obtained by accessing its website (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION: On November 8, 2002, the Commission published a notice of final rulemaking (NOFR), 67 FR 68036, Nov. 8, 2002, and a notice regarding the Handbook on Electronic Filing Procedures (Handbook notice). 67 FR 68168, Nov. 8, 2002. In its NOFR, the Commission amended section 201.8 of the rules to allow persons the option of electronic filing and to require filers to complete an on-line cover sheet at *http://edis.usitc.gov* (EDIS–II website) when filing documents either in electronic or paper form. In the Handbook notice, which sets forth procedures for electronic filing, the Commission stated that the effective date of the Handbook will be

announced in a **Federal Register** notice to be published at a later date.

The Commission has determined that the effective date of the Handbook is January 23, 2003, which is the date that EDIS–II will be available for electronic filing of documents. As appropriate, the Secretary will periodically revise the Handbook. Users should consult the Commission's EDIS–II website for the latest version of the Handbook.

The Commission also has determined to waive the requirement in § 201.8(g) of the rules that an on-line cover sheet at the EDIS–II website must be completed and printed out by paper filers for submission with their paper filings. Instead, paper filers have the option of (i) completing the on-line cover sheet at the EDIS–II website and printing out the cover sheet to be submitted with the filing; (ii) printing out the cover sheet at the EDIS website and completing the cover sheet by hand before submitting the cover sheet with the filing to the Secretary; or (iii) obtaining a paper copy of the cover sheet from the Office of the Secretary and completing the cover sheet by hand to be submitted with the paper filing. The Commission, however, strongly encourages paper filers to complete and print out the on-line cover sheet at the EDIS–II website for submission to the Secretary with their paper filings.

(Authority: 19 CFR 201.4(b)).

Issued: January 17, 2003.

By Order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–1467 Filed 1–22–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 450

[FHWA Docket No. FHWA–99–5933]

FHWA RIN 2125–AE95; FTA RIN 2132–AA75

Statewide Transportation Planning; Metropolitan Transportation Planning

AGENCY: Federal Highway Administration (FHWA), DOT

ACTION: Final rule.

SUMMARY: The FHWA, after consultation with the Federal Transit Administration (FTA), amends the planning regulation regarding the development of statewide plans and programs. Specifically, this action amends the planning regulation as it relates to consultation with non-metropolitan local officials. This action implements the provisions of the Transportation Equity Act for the 21st Century (TEA–21) regarding the consultation with non-metropolitan local officials in the statewide and metropolitan planning processes.

EFFECTIVE DATE(S): February 24, 2003.

FOR FURTHER INFORMATION CONTACT: For the FHWA: Ms. Jill Hochman, Office of Interstate and Border Planning (HEPI), (202) 366–0233, or Mr. Reid Alsop, Office of the Chief Counsel (HCC–30), (202) 366–1371. For the FTA: Mr. Paul Verchinski, Statewide Planning Division (TPL–11), (202) 366–1626, or Mr. Scott Biehl, Office of the Chief Counsel (TCC–30), (202) 366–0952. Both agencies are located at 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours for the FHWA are from 7:45 a.m. to 4:15 p.m., e.t., and for the FTA are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may also reach the Office of the Federal Register's home page at: *http://www.archives.gov* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara.*

Background

Section 1025 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102–240, 105 Stat. 1914, (December 18, 1991), amended title 23, United States Code (U.S.C.), section 135 and established a requirement for Statewide Transportation Planning and stated, ''The transportation needs of non-metropolitan areas should be considered through a process that includes consultation with local elected officials with jurisdiction over transportation.'' Section 1204 of the TEA–21, Public Law 105–178, 112 Stat. 107 (June 9, 1998), further amended 23 U.S.C. 135, while preserving the statewide planning requirement for a continuing, comprehensive and cooperative planning process. The TEA–21 required States to consult with non-metropolitan local officials in transportation planning and programming. This consultation with non-metropolitan local officials in transportation planning and programming is the specific subject of this final rule.

The FHWA and the FTA published a joint notice of proposed rulemaking (NPRM) on May 25, 2000 (65 FR 33922), that proposed revisions to the existing planning regulations issued on October 28, 1993, at 58 FR 58040. The May 2000 Planning NPRM included provisions regarding consultation with non-metropolitan local officials, and proposed that States establish and document a process for consultation with defined non-metropolitan local officials. The NPRM also proposed to require that this process be established jointly with non-metropolitan local officials. Comments were solicited until August 23, 2000 (later extended to September 23, 2000, by a July 7, 2000, **Federal Register** notice at 65 FR 41891).

On June 19, 2002 the FHWA published a supplemental notice of proposed rulemaking (SNPRM) (67 FR 41648), which proposed another option on non-metropolitan local official consultation in addition to that proposed in the NPRM. Generally the SNPRM proposed to allow greater flexibility for States to determine who local officials are and how to consult with them, by not proposing a definition of ''non-metropolitan local official,'' and not proposing to require that the process for consultation be cooperatively developed. Comments were solicited until August 19, 2002 (later extended to September 19, 2002, by an August 15, 2002, Federal Register notice at 67 FR 53326).

On September 20, 2002, the FHWA and the FTA withdrew the May 2000 NPRM at 67 FR 59219. However, this withdrawal did not impact the NPRM and SNPRM proposals for non-metropolitan local official consultation.

Input to Development of the Final Rule

During the comment period on the NPRM (May 25, 2000, through September 23, 2000), the FTA and the FHWA held seven public meetings to present information on the May 2000 Planning NPRM. A summary of questions raised at the meetings and the general responses of the FHWA and the FTA presenters is included in the docket. The FHWA and the FTA also prepared a summary of all written comments, by section, which is included in the docket. During the NPRM comment period, the Senate Environment and Public Works and House Transportation and Infrastructure Committees held hearings (September

12 and 13, 2000) regarding the May 2000 Planning NPRM. The FHWA and the FTA also reviewed and considered the comments and questions raised at these hearings.

The House report that accompanied the U.S. DOT Appropriations Act for fiscal year (FY) 2002, and the conference report for the Department of Defense FY 2002 Appropriations Act, which contained several transportation issues, directed the U.S. DOT to promulgate a final rule, no later than February 1, 2002, to ensure transportation officials from rural areas are consulted in long range transportation planning and programming.

Discussion of Comments on the SNPRM Related to Local Official Consultation

We have carefully reviewed all comments received to the docket. We received 172 documents to the docket on the SNPRM, representing 155 discrete comments. They were from: local governments, Metropolitan Planning Organizations (MPO), Councils of Governments (COG) and regional governments, State DOTs, associations representing these organizations, tribal governments, and private citizens. They generally expressed diverse views consistent with those expressed in the docket to the May 2000 NPRM.

The makeup of commenters is in the chart below, followed by a general discussion of their comments:

Type of commenter	# Comments received (% of total comments)
Local government	58 (38)
MPO, COG, Regional Planning.	33 (21)
State DOT	21 (14)
National and Regional Associations/Advocacy Groups.	19 (12)
State and Federal Officials.	3 (2)
Tribal Government	5 (3)
Private Citizens	16 (10)

Local governments, MPOs, COGs, regional governments and the associations representing these organizations generally expressed preference for the consultation option proposed by the May 2000 NPRM. Fifty-two of these comments from local governments, MPOs, COGs and regional governments requested that a definition of non-metropolitan officials be included in the final rule. Thirty expressed the need to include a requirement for an established consultation process. Twenty-eight suggested that there be a requirement in the final rule that the consultation process be developed jointly between States and local officials and that there be accountability in the consultation process. Forty-nine suggested that the FHWA and the FTA have the ability to consider local official participation when certifying the Statewide Transportation Improvement Program (STIP).

State DOTs generally supported the regulatory language proposed in the June 2002 SNPRM, which proposed to allow State flexibility to determine who local officials are and how to consult with them. State DOTs, however, did express concern with some provisions in the SNPRM. Sixteen focused on the definition of ''consultation,'' with 14 suggestions for clarification and modification. Fifteen comments were on the statewide transportation planning process with a range of suggestions, from retaining the current language to modifying the language to limit consultation to transportation related activities. Sixteen expressed concern about the use of the term ''effective'' in the public involvement provisions. Thirteen expressed concerns about the phase-in period.

We also received comments from five tribal governments. Commenters expressed concern that the language did not go far enough in addressing tribal participation in the statewide transportation process, and suggested that each State must be compelled to develop a consultation process with tribal governments. The primary focus of this action is on consultation between State DOTs and non-metropolitan local elected officials. Therefore, specific provisions in existing regulatory language related to tribal governments are not being changed by this action, except for the change in the definition of consultation (discussed in the section-by-section analysis below).

Towards the end of the comment period, the National Association of Counties (NACO) representing local governments, the National Association of Development Organizations (NADO) representing local officials, and the American Association of State Highway and Transportation Officials (AASHTO) representing the State DOTs, jointly developed proposed regulatory language and submitted it to the docket. This language addresses many, if not most, of the comments received. The FHWA and the FTA reviewed the suggested language and find that it has merit because it comes from the organizations whose members are most impacted by the final rule. Therefore, we relied heavily on their suggested language to formulate this final rule.

Section-by-Section Analysis

The FHWA and the FTA carefully analyzed all the comments to the docket for both the May 2000 NPRM and the June 2002 SNPRM in formulating this final rule. We believe this rule strikes a balance among the various interests. This section-by-section analysis only addresses those sections of 23 CFR 450 that affect consultation with non-metropolitan local officials (§§ 450.104, 450.206, 450.212, 450.214, 450.216 and 450.224).

Section 450.104 Definitions

Consultation

The June 2002 SNPRM proposed a new definition of ''consultation'' in response to comments received to the docket that the definition proposed in the May 2000 NPRM was too formalized and burdensome.

Fifty-one discrete comments were received on the definition of ''consultation'' proposed in the June 2002 SNPRM. Seventeen of those comments came from State DOTs. Three supported the proposed definition.

Twelve States commented on the language ''keeps that party informed.'' Five States were concerned that ''keeps that party informed'' meant individual updates to each party consulted with and requested clarification. Six States suggested modifying the language to ''and informs that party about action(s) taken.'' The Pennsylvania DOT suggested revising the language to ''and periodically informs that party about action(s) taken'' to allow for greater State flexibility in meeting the requirement of the definition.

Thirty local governments, associations representing them, and advocacy groups expressed concern that a reference to an ''established'' consultation process was not included in the proposed definition of ''consultation'' in the SNPRM.

Caltrans, the California DOT, also commented on the lack of a reference to an ''established'' process in the definition. Caltrans pointed out that a reference to an ''established'' process is contained elsewhere in the SNPRM, and suggested that this inconsistency be clarified.

One private citizen supported the definition as proposed in the SNPRM.

The NACO–NADO–AASHTO proposed regulatory language included a reference to an ''established'' consultation process. It also modified language regarding keeping parties informed. In the NACO–NADO–AASHTO proposed definition, ''Consultation means that one party confers with another identified party in accordance with an established process

and, prior to taking action(s), considers that party's views and periodically informs that party about action(s) taken.''

Based on the comments received, the final rule uses the definition in the NACO–NADO–AASHTO proposed regulatory language. This definition is consistent with statutory language, resolves inconsistencies, includes a reference to an established consultation process, and focuses on keeping other parties informed.

Non-Metropolitan Area

In the June 2002 SNPRM, we proposed adding the definition of ''non-metropolitan area.'' The proposed definition recognized that there are a variety of local officials who serve non-metropolitan areas. This definition specified the geographic area served by non-metropolitan officials to distinguish them from local officials in metropolitan planning areas who are involved through the MPO.

We received six comments on this proposed definition in the June 2002 SNPRM. All supported the definition. The definition proposed in the SNPRM is retained in the final rule.

Non-Metropolitan Local Official

In the May 2000 Planning NPRM we proposed adding the definition of a ''non-metropolitan local official.'' This definition was not included in the June 2002 SNPRM.

Over 50 commenters requested that the FHWA and the FTA include a definition for this term in the final rule. Specifically, 23 local governments, 16 regional planning organizations, 9 associations, and 3 private citizens expressed concern that the definition for this term had been removed from the SNRPM. They commented that by allowing the States sole discretion to determine which non-metropolitan local officials to consult with, many rural officials will be excluded. They also commented that this did not fulfill the Congressional intent of ''enhanced consultation between States and local officials.''

The NACO–NADO–AASHTO proposed regulatory language included a proposed definition for ''non-metropolitan local official'' as ''elected and appointed officials of general purpose local government in non-metropolitan areas with jurisdiction/responsibility for transportation as defined in the documented consultation process in Part 450, Section 212.''

After considering the comments received, the FHWA and the FTA have included a definition of ''non-metropolitan local official'' in the final rule that is based on the NACO–NADO–AASHTO proposed regulatory language. The definition provides a clear statement that non-metropolitan local officials are ''elected and appointed officials of general purpose local government in non-metropolitan areas with jurisdiction/responsibility for transportation.''

Section 450.206 Statewide Transportation Planning Process: General Requirements

Section 1204 of the TEA–21 clearly emphasizes the importance of recognizing non-metropolitan transportation issues and consulting with non-metropolitan local officials. In the June 2002 SNPRM, the FHWA and the FTA proposed revising § 450.206(b) and adding a new § 450.206(c) to clarify that effective consideration of non-metropolitan transportation issues and concerns and involvement of non-metropolitan local officials can be enhanced by coordinating statewide transportation planning with related planning in non-metropolitan areas.

There were 19 comments on this provision. Four regional planning organizations supported the regulatory language proposed in the June 2002 SNPRM. Nine State DOTs suggested amending ''planning activities'' in § 450.206(b) to ''transportation-related planning activities'' because they believed that without this change, State DOTs would be required to consult on non-transportation planning activities.

This section is specific to the statewide transportation planning process, and it is self-evident that the ''planning activities'' referred to in this section are related to transportation. Therefore, the FHWA and the FTA are not modifying it to specify transportation-related planning activities.

Three States also suggested modifying the language such that states ''consider'' planning outside of the metropolitan areas to be clear that coordination with non-metropolitan local officials is not required, as it is with metropolitan local officials. These commenters stated that a coordination requirement for non-metropolitan areas would exceed statutory authority, which only requires a ''consultation'' relationship.

The NACO–NADO–AASHTO proposed regulatory language would require States to ''consider coordination with planning activities being carried out outside of the metropolitan areas.''

The FHWA and the FTA agree with comments that the requirements for metropolitan areas and non-metropolitan areas are distinctly delineated in the statute. We have taken the NACO–NADO–AASHTO proposed regulatory language and modified it to require States to ''consider coordination with planning activities in non-metropolitan areas.'' The final rule includes a definition for the term ''non-metropolitan area.'' The final rule also simplifies the suggested NACO–NADO–AASHTO proposed regulatory language.

The June 2002 SNPRM proposed a new subpart 450.206(c) that says that States shall ''consider, with respect to non-metropolitan areas, the concerns of local elected officials representing units of general purpose local government.'' Three State DOTs requested editorial clarification on this proposed provision. The FHWA and the FTA believe that the provision is clear and have adopted as final the regulatory language proposed in the June 2002 SNPRM.

Section 450.212 Public Involvement

In developing the June 2002 SNPRM, the FHWA and the FTA considered comments received to the docket on this provision in the May 2000 NPRM. In addition, the FHWA and the FTA used information from other sources, including the FHWA–FTA study on participation of non-metropolitan local officials required by the TEA–21 and ten rural listening sessions held throughout the country.[1] The June 2002 SNPRM proposal focused on the intended result of ''effective participation'' of local officials in statewide transportation planning.

Thirteen states commented that the language ''effective participation'' in § 450.212(h) of the June 2002 SNPRM is a subjective term that exceeds statutory language in TEA–21. Section 1204 of TEA–21 states that USDOT will not ''review or approve'' a State's consultation process.

The Pennsylvania DOT suggested that the regulatory language state: ''that provides an opportunity for their participation'' rather than ''that provides for their effective participation.''

The NADO–NACO–AASHTO proposed regulatory language included language identical to that proposed by Pennsylvania DOT. It also included a

[1] The non-metropolitan local officials report has been transmitted to Congress and has been placed in the SNPRM docket. The report and its appendices (Rural Transportation Consultation Processes, May 2000, Rural Transportation Consultation Processes: State by State Summaries, April 2001, and Rural Transportation Consultation Processes: Report of a Workshop: May 2001) will soon be available at the following URL: *http://www.fhwa.dot.gov/planning.htm.* A summary of each of the ten rural workshops held in 1998–99 (Rural Transportation Planning Workshops, Summer 1999) is available at the following URL: *http://www.fhwa.dot.gov/hep10/state.rural.html.* These reports are in the May 2000 NPRM docket.

requirement that the State's documented process for consulting with non-metropolitan officials be ''separate and discrete'' from the public involvement process.

The FHWA and the FTA agree that the use of the term ''effective'' is subjective. We included the language suggested by Pennsylvania to be more consistent with the statutory provisions in TEA–21 in this final rule. We also included language requiring that the State's process for consulting with non-metropolitan officials be separate and discrete because TEA–21 makes a clear distinction between the metropolitan and non-metropolitan officials. The new requirement is included in the final rule as subpart 450.212 (h).

We received 28 comments recommending that the State and local officials jointly develop the consultation process. Most of these comments were from local governments, regional planning organizations, associations representing them, and interest groups.

The NACO–NADO–AASHTO proposed regulatory language suggested a new subpart 450.212(i). This new subpart requires that ''The State shall review and solicit comments from non-metropolitan local officials and other interested parties for a period of not less than 60 days regarding the effectiveness of the consultation process and proposed modification within 2 years of process implementation, and thereafter at least once every 5 years. A specific request for comments shall be directed to the State association of counties, State municipal league, regional planning agencies, or directly to non-metropolitan local officials.''

In addition, 49 commenters indicated that there should be accountability in the consultation process. Most of these comments came from local governments, regional planning organizations, associations representing them, and interest groups. One measure of accountability suggested by these commenters was that the FHWA and the FTA use their authority to consider local official participation when certifying the STIP.

The NACO–NADO–AASHTO proposed regulatory language includes a requirement regarding accountability. The suggestion is that ''The State, in its discretion, shall be responsible for determining whether to adopt proposed modifications. If a proposed modification is not adopted, the State shall make publicly available its reasons for not accepting the proposed modifications, including notification to non-metropolitan local officials of their associations.''

The FHWA and the FTA agree that the NACO–NADO–AASHTO proposed regulatory language reflects the concept of effective participation as well as accountability. The TEA–21 and the June 2002 SNPRM both focused on this type of result. Therefore, the agencies include the suggestion of the NACO–NADO–AASHTO proposed regulatory language in the final rule as a new subpart 450.212(i).

Section 450.214 Statewide Transportation Plan

Section 1204 of the TEA–21 specifically states ''with respect to each non-metropolitan area, the long-range transportation plan shall be developed in consultation with affected local officials with responsibility for transportation.'' This language is now codified at 23 U.S.C. 135(e)(2)(B). Therefore, in the June 2002 SNPRM, the FHWA and the FTA proposed adding § 450.214(f). This was intended to reflect the intent of the statute by proposing language that required affected local officials with responsibility for transportation to be involved on a consultation basis in developing the statewide transportation plan as it relates to the non-metropolitan areas of the State.

Ten States commented on this proposal. The majority of the States supported the provision as written. Some States requested clarification that affected local officials are to be consulted only on portions of the plan that affect their areas.

The FHWA and FTA believe that it is evident that local officials are to be consulted only on those portions of the plan that affect their areas. We adopted as final the language proposed in the June 2002 SNPRM that requires the involvement of local officials with responsibility for transportation to be involved in the development of the statewide transportation plan in non-metropolitan areas of the State.

Section 450.216 Statewide Transportation Improvement Program (STIP)

Section 1204 of the TEA–21 specifically states ''with respect to each non-metropolitan area in the State, the program shall be developed in consultation with affected local officials with responsibility for transportation.'' This language is now codified at 23 U.S.C. 135(f)(1)(B)(ii)(I). Therefore, in the June 2002 SNPRM, the FHWA and the FTA proposed adding § 450.216(e) to reflect the intent of the statute by proposing language that requires affected local officials with responsibility for transportation to be involved on a consultation basis in developing the STIP as it relates to the non-metropolitan areas of the State.

Eleven States commented on this provision in the SNPRM. The majority of the States supported the provision as written. Some States requested clarification that affected local officials are to be consulted only on portions of the program plan that affect their areas.

The FHWA and FTA believe that it is evident that local officials are to be consulted only on those portions of the program that affect their areas. We adopted as final the language proposed in the June 2002 SNPRM that requires the involvement of local officials with responsibility for transportation to be involved in the development of the statewide transportation improvement program in non-metropolitan areas of the State.

Section 450.224 Phase-in of New Requirements

The June 2002 SNPRM proposed a six-month phase-in period. We received 13 comments from State DOTs and 2 comments from regional planning organizations regarding this provision.

Four State DOTs and 2 regional planning organizations supported the phase-in provision as proposed in the June 2002 SNPRM. The other commenters supported a phase-in requirement but with different time frames. Three States commented that six months would not be adequate and four States commented that the phase-in requirement should accommodate the planning cycles of various States.

The NACO–NADO–AASHTO proposed regulatory language recommended a one-year phase-in period.

The FHWA and the FTA recognize the differences among the planning cycles of the States. In the final rule we have extended the phase-in period to one year (to end one year after the effective date of this rule), which will allow States additional time to implement the consultation requirements, and also accommodates the differences in the planning cycles of various States. After this period, the consultation aspects of the statewide transportation planning process will be emphasized as we assess the planning process and make the Federal planning finding required in 23 CFR 450.220(b) and 23 U.S.C. 135(f)(4).

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA and the FTA have determined that this action is a

significant regulatory action within the meaning of Executive Order 12866 and the U.S. Department of Transportation regulatory policies and procedures, because of a substantial public interest. The agencies anticipate that the economic impact of this rulemaking will be minimal. This action amends a portion of the current planning regulations for which substantial financial assistance is provided to the States by both the FHWA and the FTA to support compliance with the requirements of the regulation.

This final rule will not adversely affect, in a material way, any sector of the economy. In addition, these changes will not interfere with any action taken or planned by another agency and will not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the FHWA and the FTA have evaluated the effects of this final rule on small entities and has determined it will not have a significant economic impact on a substantial number of small entities.

The modifications in this final rule are substantially dictated by the statutory provisions of the TEA–21 and the agencies believe that the flexibility available to the States in those provisions has been maintained. For these reasons, the FHWA and the FTA certify that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub L. 104–4, March 22, 1995, 109 Stat. 48). This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year.

The requirements of 23 U.S.C. 135 are supported by Federal funds administered by the FHWA and the FTA. There is a legislatively established local matching requirement for these funds of up to twenty percent of the total cost. The FHWA and the FTA believe that the cost of complying with these requirements is predominately covered by the funds they administer. The costs of compliance with the requirements of the planning program as a whole are eligible for funding; therefore, this action will not create an unfunded mandate.

Additionally, the definition of ''Federal mandate'' in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal government. The Federal-aid highway program and the Transit program permit this type of flexibility to the States.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the agencies have determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism assessment. The FHWA and the FTA have also determined that this action does not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Throughout the course of this rulemaking, several States raised concern about burdens imposed by the requirement to consult with non-metropolitan local officials. The ISTEA and the TEA–21 require such consultation. In this final rule the FHWA and the FTA expect that existing consultation procedures often may be used to comply with these requirements.

The agencies further note that the transportation planning activities required by the planning regulations, as amended by this final rule, are conditions for the receipt of Federal transportation financial assistance and are reimbursable expenses. Under the provisions of title 23 and title 49, chapter 53, U.S.C., the Federal government reimburses at least 80 percent of the costs to complete required transportation plans and transportation improvement programs.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction; 20.500 Federal Transit Capital Improvement Grants; 20.505, Federal Transit Metropolitan Planning Grants; 20.507, Federal Transit Formula Grants; 20515, State Planning and Research. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The FHWA and the FTA have analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and have determined that this action will not have any effect on the quality of environment.

Executive Order 13175 (Tribal Consultation)

The FHWA and the FTA have analyzed this action under Executive Order 13175, dated November 6, 2000. This action will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

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

Executive Order 12988 (Civil Justice Reform)

This action 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.

Executive Order 13045 (Protection of Children)

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

Executive Order 12630 (Taking of Private Property)

This action will not effect a taking of private property or otherwise have taking implications under Executive

Order 12630, Government Actions and Interference with Constitutionally Protected Property Rights.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 450

Grant programs—transportation, Highways and roads, Mass transportation, Reporting and recordkeeping requirements.

Issued on: January 15, 2003.

Mary E. Peters,

Federal Highway Administrator.

Jennifer L. Dorn,

Federal Transit Administrator.

In consideration of the foregoing, the Federal Highway Administration is amending title 23, Code of Federal Regulations, part 450, as set forth below:

PART 450—PLANNING ASSISTANCE AND STANDARDS

1. The authority citation for part 450 continues to read as follows:

Authority: 23 U.S.C. 134, 135, and 315; and 49 U.S.C. 5303–5306, 5323(l).

2. Amend § 450.104 to revise the definition of ''consultation'' and add, in alphabetical order, the definition for ''non-metropolitan area'' and ''non-metropolitan local official'' to read as follows:

§ 450.104 Definitions.

* * * * *

Consultation means that one party confers with another identified party in accordance with an established process and, prior to taking action(s), considers that party's views and periodically informs that party about action(s) taken.

* * * * *

Non-metropolitan area means the geographic area outside designated metropolitan planning areas, as designated under 23 U.S.C. 134 and 49 U.S.C. 5303.

Non-metropolitan local official means the elected or appointed officials of general purpose local government, in non-metropolitan areas, with jurisdiction/responsibility for transportation.

* * * * *

3. Amend § 450.206 to revise paragraph (b) and to add paragraph (c) as follows:

§ 450.206 Statewide transportation planning process: General requirements.

* * * * *

(b) The statewide transportation planning process shall be carried out in coordination with the metropolitan planning process required by subpart C of this part and shall consider coordination with planning activities in non-metropolitan areas.

(c) In carrying out statewide transportation planning, the State shall consider, with respect to non-metropolitan areas, the concerns of local elected officials representing units of general purpose local government.

4. Amend § 450.212 by adding new paragraphs (h) and (i) to read as follows:

§ 450.212 Public involvement.

* * * * *

(h) The State shall provide for non-metropolitan local official participation. The State shall have a documented process(es) that is separate and discrete from the public involvement process for consulting with non-metropolitan local officials representing units of general purpose local government and/or local officials with responsibility for transportation that provides an opportunity for their participation in the statewide transportation planning process and development of the statewide transportation improvement program.

(i)The State shall review and solicit comments from non-metropolitan local officials and other interested parties for a period of not less than 60 days regarding the effectiveness of the consultation process and proposed modifications within 2 years of process implementation, and thereafter at least once every 5 years. A specific request for comments shall be directed to the State association of counties, State municipal league, regional planning agencies, or directly to non-metropolitan local officials. The State, at its discretion, shall be responsible for determining whether to adopt any proposed modifications. If a proposed modification is not adopted, the State shall make publicly available its reasons for not accepting the proposed modification, including notification to non-metropolitan local officials or their associations.

5. Amend § 450.214 by adding a paragraph (f) to read as follows:

§ 450.214 Statewide transportation plan.

* * * * *

(f) In developing the statewide transportation plan, affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the plan in non-metropolitan areas of the State.

6. Amend § 450.216 by adding a paragraph (e) to read as follows:

§ 450.216 Statewide transportation improvement program (STIP).

* * * * *

(e) In developing the statewide transportation improvement program, affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the program in non-metropolitan areas of the State.

7. Amend § 450.224 by designating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 450.224 Phase-in of new requirements.

* * * * *

(b) The State has a period of one year after February 24, 2003 to document and implement the consultation process discussed in § 450.212(h).

[FR Doc. 03–1319 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–02–022]

RIN 2115–AE47

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Houma, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the existing drawbridge operation regulation for the draw of the Bayou Dularge bridge across the Gulf Intracoastal Waterway, mile 59.9 at Houma, Terrebonne Parish, Louisiana. The rule allows for the morning closure period to be increased by 15 minutes to facilitate the movement of high volumes of vehicular traffic across the bridge during peak traffic hours.

DATES: This rule is effective February 24, 2003.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD8–02–022 and 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. Commander, Eighth District (obc), maintains the public docket for this rulemaking.

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

SUPPLEMENTARY INFORMATION:

Regulatory Information

On October 21, 2002, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation, Gulf Intracoastal Waterway, LA in the **Federal Register** (67 FR 64580). We received two responses commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

Presently, the draw of the Bayou Dularge bridge, mile 59.9, at Houma shall open on signal; except that, the draw need not be open for the passage of vessels Monday through Friday except holidays from 6:45 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m.

The Louisiana Department of Transportation and Development has requested a modification to the morning bridge operation schedule to allow the bridge to remain closed to navigation from 6:30 a.m. until 8:30 a.m. vice 6:45 a.m. to 8:30 a.m. The bridge serves as an important link between the largest residential neighborhoods in Terrebonne Parish and the Central Business District. Approximately 21,000 vehicles cross the bridge daily, 10% of which cross the bridge during the requested closure times. The adjustment to the morning closure times reflects a change to align the closure period with the times of the heaviest commuter traffic. The amount of commuter traffic continues to increase. The bridge averages 325 openings a month. The requested 15-minute closure increase will delay approximately 7 additional tows a month. The average length of a bridge opening is less than five minutes, delaying an average of 90 vehicles per opening.

Discussion of Comments and Changes

The Coast Guard received two letters in response to the Notice of Proposed Rulemaking. One letter was from a state senator representing the Terrebonne Parish area who strongly supported the proposed change. The second letter was received from the National Marine Fisheries Service stating that the drawbridge was not in their area of responsibility and declined comment. Only one minor administrative change was made to the final rule. The word ''Federal'' was added to the phrase ''except holidays'' to clarify when the rule will be in effect. No other changes to the final rule were made based upon the comments received.

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 Transportation (DOT)(44 FR 11040, February 26, 1979).

The Coast Guard expects 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 DOT is unnecessary.

This rule allows vessels ample opportunity to transit the Gulf Intracoastal Waterway with proper notification before and after the peak vehicular traffic periods. Commercial towboat operators can avoid being impacted by simply arriving 15 minutes earlier at the bridge.

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. Small entities, including towboat operators and their waterway user groups, were given an opportunity to comment regarding the effects of this proposed rule. We received no letters of objection to the proposed modification.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this 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 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 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 considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 32(e), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This final rule only involves the operation of an existing drawbridge and will not have any impact on the environment. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

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; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. § 117.451(c) is revised to read as follows:

§ 117.451 Gulf Intracoastal Waterway.

* * * * *

(c) The draw of the Bayou Dularge bridge, mile 59.9, at Houma, shall open on signal; except that, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 6:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m.

* * * * *

Dated: January 15, 2003.

J.R. Whitehead,

Captain, Coast Guard, Acting Commander, 8th Coast Guard District.

[FR Doc. 03–1484 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–02–023]

RIN 2115–AE47

Drawbridge Operation Regulation; Houma Navigation Canal, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the existing drawbridge operation regulation for the draw of the SR661 bridge across the Houma Navigation Canal, mile 36.0, at Houma, Terrebonne Parish, Louisiana. The modification will allow for the morning closure period to be increased by 30 minutes to facilitate the movement of high volumes of vehicular traffic across the bridge during peak traffic hours.

DATES: This rule is effective February 24, 2003.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD8–02–0023 and 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. Commander, Eighth District (obc), maintains the public docket for this rulemaking.

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

SUPPLEMENTARY INFORMATION:

Regulatory Information

On October 21, 2002, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation, Houma Navigation Canal, LA in the **Federal Register** (67 FR 64578). We received two responses commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

Presently, the draw of the SR 661 bridge, mile 36.0, at Houma shall open on signal, except that the draw need not be opened for the passage of vessels Monday through Friday except holidays from 7 a.m. to 8:30 a.m. and 4:30 p.m. to 6 p.m.

The Louisiana Department of Transportation and Development has requested a modification to the morning bridge operation schedule to allow the bridge to remain closed to navigation from 6:30 a.m. until 8:30 a.m. vice 7 a.m. to 8:30 a.m. The bridge serves as an important link between the largest residential neighborhoods in Terrebonne Parish and the Central Business District. Approximately 13,000 vehicles cross the bridge daily, 10% of which cross the bridge during the requested closure times. The adjustment to the morning closure time reflects a change to expand the closure period to align with the heaviest commuter traffic. The amount of commuter traffic continues to increase. The bridge averages 953 openings a month. It is estimated that 3 tows a month will be delayed by the additional 30-minute morning closure request. In a 17-day review period in July 2002, two tows requiring bridge openings were delayed during the requested additional time period. The average length of the bridge opening is less than ten minutes, delaying an average of 60 vehicles for each opening.

Discussion of Comments and Changes

The Coast Guard received two letters in response to the Notice of Proposed Rulemaking. One letter was from a state senator representing the Terrebonne Parish area who strongly supported the proposed change. The second letter was received from the National Marine Fisheries Service stating that the drawbridge was not in their area of responsibility and declined comment. Only one minor administrative change was made to the final rule. The word ''Federal'' was added to the phrase ''except holidays'' to clarify when the rule will be in effect. No other changes

to the final rule were made based upon the comments received.

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 Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects 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 DOT is unnecessary.

This rule allows vessels ample opportunity to transit the Gulf Intracoastal Waterway with proper notification before and after the peak vehicular traffic periods. Commercial towboat operators can avoid being impacted by simply arriving 30 minutes earlier at the bridge.

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.

Small entities, including towboat operators and their waterway user groups, were given an opportunity to comment regarding the effects of this proposed rule. We received no letters of objection to the proposed modification.

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 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 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 considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 32(e), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This final rule only involves the operation of an existing drawbridge and will not have any impact on the environment. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

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; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. § 117.455 is revised to read as follows:

§ 117.455 Houma Navigation Canal.

The draw of the SR661 bridge across the Houma Navigation Canal, mile 36.0, at Houma, shall open on signal; except

that, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 6:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m.

Dated: January 15, 2003.

J.R. Whitehead,

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

[FR Doc. 03–1483 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Jacksonville 02–066]

RIN 2115–AA97

Security Zones; Ports of Jacksonville, Fernandina, and Canaveral, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing permanent security zones around certain vessels within the ports of Jacksonville, Fernandina, and Canaveral. The security zones will prohibit entry into or movement within 100 yards of all tank vessels, cruise ships, and military pre-positioned ships when these vessels enter, depart or moor within the ports of Jacksonville and Canaveral. These security zones are needed to ensure public safety and prevent sabotage or terrorist acts against vessels in the COTP Jacksonville area of responsibility. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, Jacksonville, Florida or his designated representative.

DATES: This rule is effective February 24, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP Jacksonville 02–066] and are available for inspection or copying at Marine Safety Office Jacksonville, 7820 Arlington Expressway, Suite 400, Jacksonville, FL 32211, between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Drew Casey, Coast Guard Marine Safety Office Jacksonville, at (904) 232–3610.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On September 12, 2001, one day after the September 11 terrorist attacks, the Coast Guard Captain of the Port in Jacksonville established a temporary rule establishing security zones around tank vessels, passenger vessels, and military pre-positioned ships until October 3, 2001 (published on September 26, 2001, 66 FR 49104). Following these attacks by well-trained and clandestine terrorists, national security and intelligence officials have warned that future terrorists attacks are likely. As a result, on October 17, 2001, the Coast Guard published a second temporary rule in the **Federal Register** continuing these zones through 11:59 p.m. June 15, 2002 (66 FR 52689). The third temporary rule continued the zones through noon on November 15, 2002 (67 FR 41339). A fourth temporary rule continued the zones until January 30, 2003 so the Coast Guard can give adequate consideration to the comments received from the notice of proposed rulemaking (67 FR 55184).

On August 28, 2002 we published a notice of proposed rulemaking in the **Federal Register** entitled ''Security Zones; Ports of Jacksonville, Canaveral, and Fernandina, FL'' (67 FR 55184). We received one comment on the proposed rule, which is discussed below.

Background and Purpose

This rule creates 100-yard security zones around all tank vessels, cruise ships, and military pre-positioned ships when these vessels enter, depart or moor within the Ports of Jacksonville, Fernandina, and Canaveral. No person or vessel may enter these zones without the permission of the Captain of the Port of Jacksonville. These moving security zones are activated when the subject vessels pass the St. Johns River Sea Buoy, at approximate position 30 deg. 23″ 35′ N, 81 deg. 19′ 08″ W, when entering the Port of Jacksonville, or pass Port Canaveral Channel Entrance Buoys # 3 or # 4, at respective approximate positions 28 deg. 22.7′ N, 80 deg. 31.8′, and 28 deg. 23.7′ N, 80 deg. 29.2′ W, when entering Port Canaveral or passes St. Mary's River Sea Buoy, at approximate position 30 deg. 40.8″ N, 81 deg 11.8″ W, when entering the Port of Fernandina. Fixed security zones are established 100 yards around all tank vessels, cruise ships, and military pre-positioned ships docked in the Ports of Jacksonville, Fernandina, and Canaveral, Florida.

Discussion of Comments and Changes

We received one comment on the proposed rule from the Florida Department of Transportation (FDOT), Seaport Office. FDOT expressed concern that the regulation, if implemented, would not provide security for sensitive land-based resources, such as waterfront storage tanks and petroleum facilities. FDOT's concern for shore-based resources is shared by the Coast Guard and is being addressed at the national level through separate security measures. See *Maritime Security,* 67 FR 79742 (Dec. 30, 2002) (Notice of public meetings on Coast Guard national maritime security measures, including in Jacksonville, FL, on Feb. 7, 2003.)

A second concern from FDOT was that the NPRM did not prove that such a zone would prevent sabotage or terrorist acts. The Coast Guard has concluded that this rule is a necessary measure to protect certain high-risk vessels on the navigable waterways of the United States. The 100-yard security zones, although not guaranteed to eliminate all risk of sabotage or terrorist acts, will significantly reduce vulnerability and provide an enforcement mechanism if a violation occurs.

The third and final concern expressed by FDOT was that this rule would cause disruption to the movement of people and goods. First, this rule has been in place since September 2001 in the Jacksonville area and has not caused any noticeable disruption to maritime trade and transportation. Secondly, the Captain of the Port has discretion to allow a vessel to transit a security zone, if deemed necessary, to promote safe and efficient marine transportation. The environment in which the maritime industry operates has dramatically changed since September 2001. The Coast Guard believes these types of security zones, which only extend 100 yards around certain vessels, create the appropriate balance between efficient maritime transportation and necessary security in our new environment.

No changes were made to the proposed rule as a result of the comment received.

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 Transportation (DOT) (44 FR 11040; February 26, 1979) because the impact of this rule on commercial and recreational vessel navigation is minimal because most vessels will be able to transit around these zone and the Captain of the Port

may permit entry into the zone on a case by case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon 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.

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 because small entities may be allowed to enter on a case-by-case basis with the authorization of the Captain of the Port.

Assistance for Small Entities

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

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 requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

A rule has implication 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. Although this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

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 relationships 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 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.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports 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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A section 165.759 is added to read as follows:

§ 165.759 Security Zones; Ports of Jacksonville, Fernandina, and Canaveral, Florida.

(a) *Regulated area.* Moving security zones are established 100 yards around all tank vessels, cruise ships, and military pre-positioned ships during transits entering or departing the ports of Jacksonville, Fernandina, and Canaveral, Florida. These moving security zones are activated when the subject vessels pass the St. Johns River Sea Buoy, at approximate position 30 deg. 23′ 35″ N, 81 deg, 19′ 08″ West, when entering the port of Jacksonville, or pass Port Canaveral Channel Entrance Buoys # 3 or # 4, at respective approximate positions 28 deg. 22.7 N, 80 deg 31.8 W, and 28 deg. 23.7 N, 80 deg. 29.2 W, when entering Port Canaveral. Fixed security zones are established 100 yards around all tank vessels, cruise ships, and military pre-positioned ships docked in the Ports of Jacksonville, Fernandina, and Canaveral, Florida.

(b) *Regulations.* In accordance with the general regulations § 165.33 of this part, entry into these zones is prohibited except as authorized by the Captain of the Port, or a Coast Guard commissioned, warrant, or petty officer designated by him. The Captain of the Port will notify the public of any changes in the status of this zone by

Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(c) *Definition.* As used in this section: cruise ship means a passenger vessel, except for a ferry, greater than 100 feet in length that is authorized to carry more than 12 passengers for hire.

(d) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: January 3, 2003.

M.M. Rosecrans,

Captain, Coast Guard, Captain of the Port Jacksonville.

[FR Doc. 03–1485 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Miami 02–115]

RIN 2115–AA97

Security Zones; Port of Palm Beach, Palm Beach, FL; Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL; and Port of Key West, Key West, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing permanent security zones throughout the Captain of the Port of Miami's area of responsibility. The security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, Miami, Florida, or his designated representative.

DATES: This rule is effective February 16, 2003.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP Miami 02–115] and are available for inspection or copying at Marine Safety Office Miami, 100 MacArthur Causeway, Miami Beach, FL 33139 between 7:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Jennifer Sadowski, Waterways Management Division Officer, Coast Guard Marine Safety Office Miami, at (305) 535–8750.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On November 5, 2002, we published a notice of proposed rule making (NPRM) entitled ''Security Zones; Port of Palm Beach, Palm Beach FL; Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL; and Port of Key West, Key West, FL'' in the **Federal Register** (67 FR 67342). We received one letter commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The terrorist attacks of September 2001 killed thousands of people and heightened the need for development of various security measures throughout the seaports of the United States, particularly around those vessels and facilities which are frequented by foreign nationals and maintain an interest to national security. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks (67 FR 58317 (Sep. 13, 2002) (continuing national emergency with respect to terrorist attacks), 67 FR 59447 (Sep. 20, 2002) (continuing national emergency with respect to persons who commit, threaten to commit or support terrorism)). The President also has found pursuant to law, including the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*), that the security of the United States is and continues to be endangered following the attacks (E.O. 13,273, 67 FR 56215 (Sep. 3, 2002) (security endangered by disturbances in international relations of U.S and such disturbances continue to endanger such relations)). Following these attacks by well-trained and clandestine terrorists, national security and intelligence officials have warned that future terrorist attacks are likely. The Captain of the Port (COTP) of Miami has determined that there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Ports of Palm Beach, Miami, Port Everglades, and Key West, Florida. These security zones are necessary to protect the public, ports, and waterways of the United States from potential subversive acts.

The Coast Guard Captain of the Port of Miami established temporary security zones in these areas following the September 11, 2001 attacks. Those temporary rules are as follows:

On September 11, 2001, the COTP issued a temporary final rule (TFR) (67 FR 9194, 9195, February 28, 2002, Docket # COTP Miami 01–093) establishing 100-yard security zones around certain vessels in the Port of Palm Beach, Miami, Port Everglades, and Key West, FL, that expired September 25, 2001. On September 25, 2001, the COTP issued another TFR (67 FR 1101, January 9, 2002, COTP Miami 01–115) that maintained these 100-yard security zones around certain vessels in the Ports of Palm Beach, Miami, Port Everglades, and Key West, FL, and added a reference to specific points (buoys) where moving zones were activated and deactivated. This second TFR expired on June 15, 2002.

On October 7, 2001, the COTP issued a TFR (67 FR 6652, February 13, 2002, COTP Miami 01–116) establishing fixed security zones in Port Everglades and Miami, FL, that expired June 15, 2002.

On October 11, 2001, the COTP issued a TFR (67 FR 4177, January 29, 2002, COTP Miami 01–122) establishing a fixed-security zone for Port Everglades, FL, that expired June 15, 2002.

All of the above security zones were extended by a TFR issued on June 13, 2002 (67 FR 46389, COTP Miami–02–054) until December 15, 2002. That temporary final rule requested comments. As of December 12, 2002, the Coast Guard has not received any comments on that TFR.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after **Federal Register** publication. Delay in the effective date of this regulation would be contrary to public interest. The assets protected by these security zones present possible targets of terrorist attack due to their potential for large personnel casualties if struck by a terrorist attack. Making this rule effective less than 30 days after **Federal Register** publication is necessary to prevent a lapse between this rule and the temporary regulations currently in place, which would leave persons at these assets, and the public and surrounding communities, vulnerable to sabotage or other subversive acts, accidents, or other events of a similar nature.

Discussion of Comments and Changes

The Coast Guard received one comment on the proposed rule consisting of two points. The comment stated that the security zone will bankrupt his business as a mobile vendor on the Mallory Docks in Key West and the security zone interferes with his ability to recreationally dive in the harbor. Landside restricted areas are established by local police as opposed to the United States Coast Guard and therefore, this security zone does not affect any land based mobile vendor businesses. The security zones around

passenger vessels, vessels carrying cargoes of particular hazard, or vessels carrying liquid hazardous gas as defined in 33 CFR parts 120, 126, and 127 respectively, are established for the national security and safety and security of the public. Recreational diving in Key West Harbor may be conducted at any time as long as the 100-yard security zone around these particular vessels is not entered. Additionally, the commenter may ask the Captain of the Port of Miami for permission to enter the security zone on a case-by-case basis. The Coast Guard has evaluated these comments and has decided not to change the proposed rule.

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 Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary because we anticipate these security zones may only impact vessel traffic for short periods of times. Alternate vessel traffic routes have also been accounted for to assist in minimizing delays. Also, the Captain of the Port of Miami may allow persons or vessels to enter a security zone on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic effect upon 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 would not have a significant economic impact on a substantial number of small entities because we anticipate these security zones may only impact vessel traffic for short periods of times. Alternate vessel traffic routes have also been identified to assist in minimizing delays. Also, the Captain of the Port of Miami may allow persons or vessels to enter a security zone on a case-by case basis. 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. 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 LTJG Jennifer Sadowski at (305) 535–8750.

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 implication 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. Although this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not 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 create an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because no environmental changes will be affected with the security zone implementation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

Indian Tribal Governments

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports 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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add new § 165.761 to read as follows:

§ 165.761 Security Zones; Port of Palm Beach, Port Everglades, Port of Miami, and Port of Key West, Florida.

(a) *Location.* The following areas are security zones:

(1) *Fixed and moving security zones around vessels in the Ports of Palm Beach, Port Everglades, Miami, and Key West, Florida.* Moving security zones are established 100 yards around all passenger vessels, vessels carrying cargoes of particular hazard, or vessels carrying liquefied hazardous gas (LHG) as defined in 33 CFR parts 120, 126 and 127 respectively, during transits entering or departing the Ports of Palm Beach, Port Everglades, Miami or Key West, Florida. These moving security zones are activated when the subject vessel passes: ''LW'' buoy, at approximate position 26°46.3′ N, 080°00.6′ W, when entering the Port of Palm Beach, passes ''PE'' buoy, at approximate position 26°05.5′ N, 080°04.8′ W, when entering Port Everglades; the ''M'' buoy, at approximate position 25°46.1′ N, 080°05.0′ W, when entering the Port of Miami; and ''KW'' buoy, at approximate position 24°27.7′ N, 081°48.1′ W, when entering the Port of Key West. Fixed security zones are established 100 yards around all passenger vessels, vessels carrying cargoes of particular hazard or liquefied hazardous gas (LHG) as defined in 33 CFR parts 120, 126 and 127 respectively, while they are docked in the Ports of Palm Beach, Port Everglades, Miami or Key West, Florida.

(2) *Fixed security zone in the Port of Miami, Florida.* A fixed security zone encompasses all waters between Watson Park and Star Island on the MacArthur Causeway south to the Port of Miami. The western boundary is formed by an imaginary line from points 25°46.79′ N, 080°10.90′ W, to 25°46.77′ N, 080°10.92′ W to 25°46.88′ N, 080°10.84′ W, and ending on Watson Park at 25°47.00′ N, 080°10.67′ W. The eastern boundary is formed by an imaginary line from the traffic light located at Bridge road, in approximate position 25°46.33′ N, 080°09.12′ W, which leads to Star Island, and MacArthur Causeway directly extending across the Main Channel to the Port of Miami, at 25°46.26′ N, 080°09.18′ W. The fixed security zone is activated when two or more passenger vessels, vessels carrying cargoes of particular hazard, or vessels carrying liquefied hazardous gas (LHG) as defined in 33 CFR parts 120, 126 and 127 respectively, enter or moor within this zone.

(i) Vessels may be allowed to transit the Main Channel when only one passenger vessel or vessel carrying cargoes of particular hazard are berthed, by staying on the north side of the law enforcement boats and cruise ship tenders which will mark a transit lane in channel.

(ii) When passenger vessels are not berthed on the Main Channel, navigation will be unrestricted. Law enforcement vessels can be contacted on VHF Marine Band Radio, Channel 16 (156.8 MHz).

(3) *Fixed security zones in the Port Everglades.* A fixed security zone encompasses all waters west of an imaginary line starting at the northern most point 26°05.98′ N, 080°07.15′ W, near the west side of the 17th Street Causeway Bridge, to the southern most point 26°05.41′ N, 080°06.96′ W, on the northern tip of pier 22. An additional fixed security zone encompasses the Intracoastal Waterway between a line connecting point 26°05.41′ N, 080°06.97′ W, on the northern tip of berth 22 and a point directly east across the Intracoastal Waterway to 26°05.41′ N, 080°06.74′ W; and a line drawn from the corner of Port Everglades berth 29 at point 26°04.72′ N, 080°06.92′ W, easterly across the Intracoastal Waterway to John U. Lloyd Beach, State Recreational Area at point 26°04.72′ N, 080°06.81′ W.

(i) Vessels may be allowed to transit the Intracoastal Waterway when passenger vessels or vessels carrying cargoes of particular hazard are berthed, by staying east of the law enforcement vessels and cruise ship tenders, which will mark a transit lane in the Intracoastal Waterway.

(ii) Periodically, vessels may be required to temporarily hold their positions while large commercial traffic operates in this area. Vessels in this security zone must follow the orders of the COTP or his designated representative, who may be embarked in law enforcement or other vessels on scene. When passenger vessels are not berthed on the Intracoastal Waterway, navigation will be unrestricted. Law enforcement vessels can be contacted on VHF Marine Band Radio, Channel 16 (156.8 MHz).

(b) *Regulations.* (1) Prior to commencing the movement, the person directing the movement of a passenger vessel, a vessel carrying cargoes of particular hazard or a vessel carrying liquefied hazardous gas (LHG) as defined in Title 33, Code of Federal Regulations parts 120, 126 and 127 respectively, is encouraged to make a security broadcast on VHF Marine Band Radio, Channel 13 (156.65 MHz) to advise mariners of the moving security zone activation and intended transit.

(2) In accordance with the general regulations § 165.33 of this part, entry into these zones is prohibited except as authorized by the Captain of the Port Miami or his designated representative. Other vessels such as pilot boats, cruise ship tenders, tug boats and contracted security vessels may assist the Coast Guard Captain of the Port under the direction of his designated representative by monitoring these zones strictly to advise mariners of the restrictions. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (156.8 MHz) when the security zones are being enforced.

(3) Persons desiring to enter or transit the area of the security zone may contact the Captain of the Port at (305) 535–8701 or on VHF Marine Band Radio, Channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(4) The Captain of the Port Miami may waive any of the requirements of this subpart for any vessel upon finding that the vessel or class of vessel, operational conditions, or other circumstances are such that application of this subpart is unnecessary or impractical for the purpose of port security, safety or environmental safety.

(c) *Definition.* As used in this section, cruise ship means a passenger vessel greater than 100 feet in length and over 100 gross tons that is authorized to carry more than 12 passengers for hire making voyages lasting more than 24 hours, except for a ferry.

(d) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: December 23, 2002.

J.A. Watson, IV,

Captain, Coast Guard, Captain of the Port Miami.

[FR Doc. 03–1482 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 271–0374a; FRL–7427–8]

Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District and Yolo-Solano Air Quality Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Santa Barbara County Air Pollution Control District (SBCAPCD) and the Yolo-Solano Air Quality Management District (YSAQMD) portions of the California State Implementation Plan (SIP). The SBCAPCD revision concerns the emission of particulate matter (PM–10) from open fires and prescribed burning. The YSAQMD revision concerns the emission of volatile organic compounds (VOCs) from the transfer of gasoline at dispensing facilities. We are approving the local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on March 24, 2003 without further notice, unless EPA receives adverse comments by February 24, 2003. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted rules and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see a copy of the submitted rules and TSDs at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, (Mail Code 6102T), Room B–102, 1301 Constitution Avenue, NW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, Suite B–23, Goleta, CA 93117.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616.

A copy of a rule may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.htm.* This is not an EPA website and it may not contain the same version of the rule that was submitted to EPA. Readers should verify that the adoption date of the rule listed is the same as the rule submitted to EPA for approval and be aware that the official submittal is only available at the agency addresses listed above.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the date that they were revised by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Revised	Submitted
SBCAPCD	401	Agricultural and Prescribed Burning	05/16/02	08/06/02
YSAQMD	2.22	Gasoline Dispensing Facilities	06/12/02	08/06/02

On August 30, 2002, this submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

We approved a version of SBCAPCD Rule 401 on May 18, 1981 (46 FR 27116). We approved a version of YSAQMD Rule 2.22 on February 28, 1984 (49 FR 7231).

C. What Is the Purpose of the Submitted Rule Revisions?

The purposes of the submitted SBCAPCD Rule 401 revisions are as follows:

- To implement the revised California Smoke Management Guidelines.
- To minimize smoke impacts.
- To establish a collaborative relationship between the SBCAPCD and burners.
- To provide reduced fuel loads with prescribed burning and remove crop waste without smoke impacts.

The purpose of the submitted rule revisions to YSAQMD Rule 2.22 are as follows:

- To improve compliance of Phase II vapor systems at gasoline dispensing facilities with more strict maintenance and inspection programs.
- To add new test procedures and perform more frequent reverification of performance tests of vapor recovery equipment.
- To increase the efficiency of vapor recovery equipment.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). SIP rules must require BACM/BACT or RACM/RACT for major sources in PM–10 nonattainment areas (see sections 189(a) and 189(b)). SIP rules must require Reasonably Available Control Technology (RACT) for major sources in ozone nonattainment areas (see section 182(a)(2)(A)) and must fulfill the special requirements for gasoline vapor recovery in ozone nonattainment areas (see section 182(b)(3)(A)).

The SBCAPCD regulates a PM–10 attainment area (see 40 CFR 81.305), so the rule need not require BACM/BACT or RACM/RACT.

The YSAQMD regulates serious ozone nonattainment areas in all of Yolo County and part of Solano County (see 40 CFR 81.305), so the rule must fulfill RACT requirements and fulfill the special requirements for gasoline vapor recovery.

The following guidance documents were used for reference:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.
- *General Preamble Appendix C3—Prescribed Burning Control Measures* (57 FR 18072, April 28, 1992).
- *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 57 FR 13498, 13540 (April 16, 1992).
- *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 59 FR 41998 (August 16, 1994).
- *PM–10 Guideline Document*, EPA–452/R–93–008.
- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 Federal Register Notice*, (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
- Draft *Model Rule, Gasoline Dispensing Facility—Stage II Vapor Recovery*, EPA (August 17, 1992).
- *Gasoline Vapor Recovery Guidelines*, EPA Region IX (April 24, 2000).

B. Do the Rules Meet the Evaluation Criteria?

We believe the rules are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, RACT requirements, and the special requirements for gasoline vapor recovery. The TSDs have more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by February 24, 2003, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on March 24, 2003. This will incorporate these rules into the federally-enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this direct final rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Background Information

Why Were These Rules Submitted?

PM–10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM–10 emissions. Table 2 lists some of the national milestones leading to the submittal of local agency PM–10 rules.

TABLE 2.—PM–10 NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the Clean Air Act, as amended in 1977. 43 FR 8964; 40 CFR 81.305.
July 1, 1987	EPA replaced the TSP standards with new PM standards applying only up to 10 microns in diameter (PM–10). 52 FR 24672.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted, Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671*q*.
November 15, 1990	PM–10 areas meeting the qualifications of section 107(d)(4)(B) of the CAA were designated nonattainment by operation of law and classified as moderate pursuant to section 188(a). States are required by section 110(a) to submit rules regulating PM–10 emissions in order to achieve the attainment dates specified in section 188(c).

VOCs help produce ground-level ozone, smog, and particulate matter which harm human health and the environment. EPA has established National Ambient Air Quality Standards (NAAQS) for ozone. Section 110(a) of the CAA requires states to submit regulations in order to achieve and maintain the NAAQS. Table 3 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 3.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671*q*.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 24, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: December 4, 2002.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(303) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(303) New and amended regulations for the following APCDs were submitted on August 6, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Santa Barbara County Air Pollution Control District.

(*1*) Rule 401, adopted on October 18, 1971 and revised on May 16, 2002.

(B) Yolo Solano Air Quality Management District.

(*1*) Rule 2.22, revised on June 12, 2002.

* * * * *

[FR Doc. 03–1362 Filed 1–22–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

49 CFR Part 1510

[Docket No. TSA–2001–11120]

RIN 2110–AA01

Imposition and Collection of Passenger Civil Aviation Security Service Fees

AGENCY: Transportation Security Administration, DOT.

ACTION: Partial waiver of independent audit requirement of final rule.

SUMMARY: Under specified conditions and until further notice, the Transportation Security Administration (TSA) will not enforce certain independent audit requirements related to the September 11th Security Fee collected by direct air carriers and foreign air carriers. This partial waiver is because the audit may not be necessary and may be overly burdensome.

DATES: Effective January 23, 2003.

FOR FURTHER INFORMATION CONTACT: For guidance on technical matters contact Randall Fiertz, Acting Director of Revenue, (202) 385–1209. For guidance on legal or other matters contact Steven Cohen, Office of Chief Counsel, (202) 493–1216.

SUPPLEMENTARY INFORMATION: In order to offset the costs of providing certain civil aviation security services, TSA imposed a uniform security service fee, the September 11th Security Fee (fee), on passenger enplanements for certain flights originating at airports in the United States. The interim final rule for the fee was published in the **Federal Register** on December 31, 2001, amended on March 28, 2002, and codified at 49 CFR part 1510. Section 1510.9 requires direct air carriers and

foreign air carriers to collect and remit the fee. Section 1510.15(b) requires carriers that collect the fee from more than 50,000 passengers annually to provide for an annual audit of their security service fee activities and accounts. Section 1510.15(c) requires that the audit be performed by an independent public certified accountant, that the auditor express an opinion on the fairness and reasonableness of the carrier's procedures for collecting, holding and remitting the fee, and that the audit address whether the quarterly reports required in § 1510.17 fairly represent the net transactions in the carrier's security service fee accounts.

Since issuing the interim final rule, TSA has reviewed several comments in the public docket, Docket No. TSA–2001–11120, concerning the relative burdens and benefits of independent audits for this fee. In light of the high cost of independent audits; the economic condition of the aviation industry; the fact that TSA, in conjunction with other Federal agencies, is initiating its own reviews of fee payments by selected carriers; and TSA's confidence that the aviation industry has demonstrated a high level of compliance with 49 CFR part 1510 thus far, TSA has determined that it may not be necessary for the carriers to expend the resources necessary to provide for independent audits regarding the fee.

By this document, TSA waives enforcement of the requirement in 49 CFR 1510.15(b) that carriers provide for annual independent audits of their September 11th Security Fees. Notwithstanding this suspension of the audit requirement, carriers must still comply with the record keeping requirements of § 1510.15(a) and fully cooperate with Federal oversight efforts conducted pursuant to § 1510.19, which authorizes representatives of the Secretary of Transportation, the Under Secretary of Transportation for Security, the Inspector General of the Department of Transportation, or the Comptroller General of the United States to audit or review the carriers' books or records. TSA is not waiving or deferring enforcement of any other requirement set forth in 49 U.S.C. 44940, 49 CFR part 1510, or the audit requirement pertaining to the Aviation Security Infrastructure Fee imposed on carriers in 49 CFR part 1511.

Upon conducting its own reviews of fee payments by carriers (including those conducted by or jointly with other Federal agencies), TSA will determine whether to eliminate the independent audit requirement or to rescind this waiver and reinstate the independent audit requirement. If TSA decides to eliminate the requirement, an amendment to 49 CFR part 1510 will be published in the **Federal Register**. If TSA decides to rescind the waiver a document will be published in the **Federal Register** at least 90 days in advance of its effectiveness.

Issued in Washington, DC, on January 14, 2003.

James M. Loy,

Under Secretary of Transportation for Security.

[FR Doc. 03–1487 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–62–P

Proposed Rules

Federal Register

Vol. 68, No. 15

Thursday, January 23, 2003

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1730

RIN 2550–AA25

Public Disclosure of Financial and Other Information

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Proposed regulation.

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

DATES: Written comments on the proposed regulation must be received by March 24, 2003.

ADDRESSES: Send written comments concerning the proposed regulation to Alfred M. Pollard, General Counsel, Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. Written comments may also be sent to Mr. Pollard by electronic mail at *RegComments@OFHEO.gov.* OFHEO requests that written comments submitted in hard copy also be accompanied by the electronic version in MS Word or in portable document format (PDF) on 3.5″ disk.

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

SUPPLEMENTARY INFORMATION:

I. Comments

The Office of Federal Housing Enterprise Oversight (OFHEO) invites comments on all aspects of the proposed regulation, including legal and policy considerations, and will take all comments into consideration before issuing the final regulation. Copies of all comments received will be available for examination by the public at the Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552, or on the OFHEO Web site at *http://www.ofheo.gov.*

II. Background

A. Introduction

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

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

As users of and participants in the financial markets, the success of the Enterprises in meeting their public policy missions and in maintaining their safe and sound operations is inextricably tied to full and robust disclosure.[1] Disclosure may provide information about the corporate operations of a firm, the intricacies of a given securities offering, or specialized information concerning particular events or business practices. In addition, Enterprise securities have become increasingly significant to domestic and foreign market participants. The business practices of the Enterprises affect large and small investors, debt markets and international debt holders alike. Access to the markets and the price of that access are directly affected by investor perceptions of the transparency of the Enterprises and the safety and soundness of their operations. In such an environment, as the Enterprises themselves acknowledge, they have an interest in providing ''best in class'' disclosures.[2]

B. Disclosure and Safe and Sound Operations

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

While the offer and sale of their securities are exempt from the registration requirements of the Securities Act of 1933[6] and their securities are exempted securities under the Securities Exchange Act of 1934 (Exchange Act),[7] the Enterprises last July indicated that they would voluntarily register their common stock

[1] *See, Freddie Mac and Fannie Mae Enhancements to Capital Strength, Disclosure and Market Discipline,* 3–4 News, Archives (October 19, 20000), available at *http://www.freddiemac.com/;* and *Franklin Raines, FDIC Panel: ''The Rise of Risk Management: Challenges for Policy Makers,''* 1, 6 Media, Speeches (July 31, 2002), available at *http://www.fanniemae.com/.*

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

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

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

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

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

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

with the Securities and Exchange Commission (SEC) under the provisions of section 12(g) of the Exchange Act, 15 U.S.C. 78*l*(g). That section permits companies not covered by the Exchange Act and its requirements for periodic disclosures to submit voluntarily to SEC rules. Voluntary registration triggers the attendant rules and regulations of the SEC, including SEC enforcement authorities. Once a company volunteers, it must remain under the strictures of the law, unless permitted to remove itself by the SEC. OFHEO is proposing this regulation, in part, to facilitate the process of voluntary registration by the Enterprises under the Exchange Act.

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

III. Section-by-Section Analysis

Section 1730.1 Purpose

This part would require the Enterprises to prepare and submit financial and other disclosures as specified by OFHEO. The required disclosures are intended to complement the supervisory efforts of OFHEO to ensure the capital strength of the Enterprises and to promote safe and sound operations within each Enterprise and the mortgage-finance system.

This section also would note that this regulation does not limit or restrict the authority of OFHEO to act under its safety and soundness mandate to regulate the Enterprises, including conducting examinations, requiring reports and disclosures, and enforcing compliance with applicable laws, rules and regulations.

Section 1730.2 Definitions

This section would set forth definitions relevant to the proposed regulation.

Section 1730.3 Periodic Disclosures

This section would require each Enterprise to prepare disclosures relating to its financial condition, results of operation, business developments and management expectations that include supporting financial information and certification thereof.

An Enterprise would satisfy the proposed requirement for periodic disclosures required in the section if:

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

2. The Enterprise files with the Commission all reports, statements and forms required pursuant to section 14(a) and (c) of the Exchange Act and by rules and regulations adopted by the Commission under that section; and

3. The officers and members of the board of directors of the Enterprise file with the Commission all reports and forms relating to the common stock of the Enterprises required pursuant to section 16 of the Exchange Act and by rules and regulations adopted by the Commission under that section.

Section 1730.4 Submission of Disclosures

This section would require that, unless otherwise directed by OFHEO, the Enterprises must provide to OFHEO on a concurrent basis copies of all disclosures filed with the SEC under § 1730.3.

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

The proposed regulation would not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required. The proposed regulation, however, has been submitted to the Office of Management and Budget (OMB) for review under other provisions of Executive Order 12866 as a significant regulatory action.

Regulatory Flexibility Act

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

Executive Order 13132, Federalism

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

List of Subjects in 12 CFR Part 1730

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

Accordingly, for the reasons stated in the preamble, OFHEO proposes to add part 1730 to subchapter C of 12 CFR chapter XVII to read as follows:

Subchapter C—Safety and Soundness

PART 1730—DISCLOSURE OF FINANCIAL AND OTHER INFORMATION

Sec.
1730.1 Purpose.
1730.2 Definitions.
1730.3 Periodic disclosures.
1730.4 Submission of disclosures.

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

§ 1730.1 Purpose.

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

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

§ 1730.2 Definitions.

For purposes of this part, the term:

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

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

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

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

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

§ 1730.3 Periodic disclosures.

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

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

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

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

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

§ 1730.4 Submission of disclosures.

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

Dated: January 15, 2003.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 03–1298 Filed 1–22–03; 8:45 am]

BILLING CODE 4220–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–13362; Airspace Docket No. 02–ASO–7]

RIN 2120–AA66

Proposed Revision of VOR Federal Airways and Jet Routes in the Vicinity of Savannah, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revise four jet routes and seven Very High Frequency Omnidirectional Range (VOR) Federal airways in the vicinity of Savannah, GA, due to the relocation of the Savannah Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) facility. The Savannah VORTAC is being relocated at the Savannah International Airport as a result of environmental restrictions at the present VORTAC site. The relocation of the VORTAC requires that segments of the affected jet routes and VOR Federal airways be redescribed.

DATES: Comments must be received on or before March 10, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify both docket numbers, FAA–2002–13362/ Airspace Docket No. 02–ASO–7, at the beginning of your comments.

You may also submit comments through the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, ASO–500, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, 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:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following

statement is made: ''Comments to Docket No. FAA–2002–13362/Airspace Docket No. 02–ASO–7.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

Additionally, any person may obtain a copy of this notice 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. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to revise the descriptions of four jet routes and seven VOR Federal airways in the vicinity of Savannah, GA. Specifically, this notice is proposing to revise jet routes J–51, J–55, J–79, and J–103; and VOR Federal Airways V–3, V–37, V–154, V–185, V–437, V–441, and V–578. The proposed action would make minor amendments in the legal descriptions to align affected jet route and VOR Federal airway segments with the new VORTAC site.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under 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.

Jet routes and Domestic VOR Federal airways are published in paragraphs 2004 and 6010(a), respectively, of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The jet routes and VOR Federal airways listed in this document would be published subsequently in the order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; 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 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

Paragraph 2004—Jet Routes

* * * * *

J–51 [Revised]

From Craig, FL; INT Craig 004° and Savannah, GA, 193° radials; Savannah; Columbia, SC; INT Columbia 042° and Flat Rock, VA, 212° radials; Flat Rock; Nottingham, MD; Dupont, DE; to Yardley, NJ.

* * * * *

J–55 [Revised]

From Dolphin, FL; INT Dolphin 331° and Gators, FL, 160° radials; INT Gators 160° and Craig, FL, 192° radials; Craig; INT Craig 004° and Savannah, GA, 193° radials; Savannah; Charleston, SC; Florence, SC; INT Florence 003° and Raleigh-Durham, NC, 224° radials; Raleigh-Durham; INT Raleigh-Durham 035° and Hopewell, VA, 234° radials; Hopewell; INT Hopewell 030° and Nottingham, MD, 174° radials. From Sea Isle, NJ; INT Sea Isle 050° and Hampton, NY, 223° radials; Hampton; Providence, RI; Boston, MA; Kennebunk, ME; Presque Isle, ME; to Mont Joli, PQ, Canada, excluding the portion within Canada.

* * * * *

J–79 [Revised]

From Key West, FL; INT Key West 038° and Dolphin, FL, 244° radials; Dolphin; Palm Beach, FL; Vero Beach, FL; Ormond Beach, FL; INT Savannah, GA, 178° and Charleston, SC, 212° radials; Charleston; Tar River, NC; Franklin, VA; Salisbury, MD; INT Salisbury 018° and Kennedy, NY, 218° radials; Kennedy; INT Kennedy 080° and Nantucket, MA, 254° radials; INT Nantucket 254° and Marconi. MA, 205° radials; Marconi; INT Marconi 006° and Bangor, ME, 206° radials; Bangor.

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J–103 [Revised]

From Ormond Beach, FL; to Savannah, GA.

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Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–3 [Revised]

From Key West, FL; INT Key West 083° and Dolphin, FL, 191° radials; Dolphin; Ft. Lauderdale, FL; Palm Beach, FL; Vero Beach, FL; Melbourne, FL; Ormond Beach, FL; Brunswick, GA; INT Brunswick 014° and Savannah, GA, 177° radials; Savannah; INT Savannah 028° and Vance, SC, 203° radials; Vance; Florence, SC; Sandhills, SC; Raleigh-Durham, NC; INT Raleigh-Durham 016° and Flat Rock, VA, 214° radials; Flat Rock; Gordonsville, VA; INT Gordonsville 331° and Martinsburg, WV, 216° radials; Martinsburg; Westminster, MD; INT Westminster 048° and Modena, PA, 258° radials; Modena; Solberg, NJ; INT Solberg 044° and Carmel, NY, 243° radials; Carmel; Hartford, CT; INT Hartford 084° and Boston, MA, 224° radials; Boston; INT Boston 014° and Pease, NH, 185° radials; Pease; INT Pease 004° and Augusta, ME, 233° radials; Augusta;

Bangor, ME; INT Bangor 039° and Houlton, ME, 203° radials; Houlton; Presque Isle, ME; to PQ, Canada. The airspace within R–2916, R–2934, R–2935, and within Canada is excluded.

* * * * *

V–37 [Revised]

From Craig, FL; Brunswick, GA; INT Brunswick 014° and Savannah, GA, 177° radials; Savannah; Allendale, SC; Columbia, SC; Charlotte, NC; Pulaski, VA; Elkins, WV; Clarksburg, WV; INT Clarksburg 359° and Ellwood City, PA, 185° radials; Ellwood City; Erie, PA; INT Erie 010° and Toronto, ON, Canada 210° radials; to Toronto. The airspace within Canada is excluded.

* * * * *

V–154 [Revised]

From Rome, GA; INT Rome 166° and Macon, GA, 301° radials; Macon; Dublin, GA; INT Dublin 105° and Savannah, GA, 289° radials; to Savannah.

* * * * *

V–185 [Revised]

From Savannah, GA; INT Savannah 335° and Colliers, SC, 150° radials; Colliers; Greenwood, SC; Sugarloaf Mountain, NC; Snowbird, TN; INT Snowbird 301° and Volunteer, TN, 069° radials; to Volunteer.

* * * * *

V–437 [Revised]

From Dolphin, FL; INT Dolphin 354° and Pahokee, FL, 157° radials; Pahokee; Melbourne, FL; INT Melbourne 322° and Ormond Beach, FL, 211° radials; Ormond Beach; INT Ormond Beach 360° and Savannah, GA, 177° radials; Savannah; INT Savannah 053° and Charleston, SC, 231° radials; Charleston; to Florence, SC. The airspace within R–2935 is excluded.

* * * * *

V–441 [Revised]

From Melbourne, FL; INT Melbourne 269° and Lakeland, FL, 081° radials; Lakeland; St. Petersburg, FL; INT St. Petersburg 010° and Ocala, FL, 213° radials; Ocala; Gators, FL; INT Gators 017° and Brunswick, GA, 223° radials; Brunswick; INT Brunswick 060° and Savannah, GA, 177° radials; to Savannah.

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V–578 [Revised]

From Pecan, GA; Tift Meyers, GA; Alma, GA; INT Alma 072° and Savannah, GA, 196° radials; to Savannah.

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Issued in Washington, DC, on January 15, 2003.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 03–1478 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. 2002–FAA–14184; Airspace Docket No. 02–AWP–12]

RIN 2120–AA66

Proposed Amendment of Restricted Area R–2303A and R–2303B, Fort Huachuca, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend the designated time of use for restricted area R–2303A (R–2303A) and R–2303B, Fort Huachuca, AZ. Specifically, this action proposes to change the designated time of use for R–2303 A and B from ''Monday–Friday 0700–1600 local time,'' to ''Monday–Friday 0700 to 1700 local time.'' Increased training requirements at Fort Huachuca have resulted in a regular need for restricted airspace usage up to 1700 hours Monday through Friday. This proposed modification would not change the current boundaries or activities conducted in R–2303 A and B.

DATES: Comments must be received on or before March 10, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket numbers FAA–2002–14184/Airspace Docket No. 02–AWP–12 at the beginning of your comments.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing the proposal; any comments received; and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also you may review public dockets on the Internet at *http://dms.dot.gov.* An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, CA 90261.

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:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2002–14184/Airspace Docket No. 02–AWP–12.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

Additionally, any person may obtain a copy of this notice 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. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Restricted airspace at Fort Huachuca, AZ, dates back to the 1960's. The current designated time of use for the restricted area was based on past use. The U.S. Army requested this change since increased training requirements have resulted in a regular need for restricted airspace usage up to 1700 hours Monday through Friday. The restricted areas hours of use during the past several years has been routinely extended from 1600 hours to 1700 hours by the issuance of a Notice to Airmen (NOTAM).

The Proposal

The FAA is proposing an amendment to 14 Code of Federal Regulations (CFR) part 73 to amend the designated time of use for R–2303A and R–2303B Fort Huachuca, AZ. Specifically, this action proposes to change the designated time of use for R–2303 A and B from ''Monday–Friday 0700–1600 local time,'' to ''Monday–Friday 0700-to 1700 local time.'' The U.S. Army has proposed this modification to better accommodate increased training requirements at Fort Huachuca. This action would not change the current boundaries or activities conducted within R–2303A and B.

Section 73.48 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8K dated September 26, 2002.

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

Environmental Review

This proposal will be subjected to the appropriate environmental analysis in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts, prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Proposed Amendment

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

PART 73—SPECIAL USE AIRSPACE

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

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

§ 73.23 [Amended]

2. § 73.23 is amended as follows:

* * * * *

R–2303A, AZ [Amended]

By removing ''Time of designation. Monday–Friday, 0700–1600 local time; other times by NOTAM at least 24 hours in advance,'' and substituting ''Time of designation. Monday–Friday, 0700–1700 local time; other times by NOTAM at least 24 hours in advance,'' in its place.

R–2303B, AZ [Amended]

By removing ''Time of designation. Monday–Friday, 0700–1600 local time; other times by NOTAM at least 24 hours in advance,'' and substituting ''Time of designation. Monday–Friday, 0700–1700 local time; other times by NOTAM at least 24 hours in advance,'' in its place.

* * * * *

Issued in Washington, DC on January 16, 2003.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 03–1476 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 967]

RIN 1512–AC85

Proposed Alexandria Lakes Viticultural Area (2002R–152P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: ATF has received a petition to establish a viticultural area in Douglas County, Minnesota, to be named ''Alexandria Lakes.'' We invite comments on this petition.

DATES: We must receive written comments by March 24, 2003.

ADDRESSES: You may send comments to any of the following addresses—

- Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221 (Attn: Notice No. 967);
- 202–927–8525 (facsimile);
- *nprm@atfhq.atf.treas.gov* (e-mail);
- *http://www.atf.treas.gov* (online). A comment form is available. At this site, select ''Regulations,'' then ''Notices of proposed rulemaking (Alcohol).'' Finally, select ''Send comments via e-mail'' under this notice number.

See the Public Participation section of this notice for specific requirements.

FOR FURTHER INFORMATION CONTACT: Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–9347).

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

ATF's Authority

The Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 205(e) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity, while prohibiting the use of deceptive information on such labels. The FAA Act also authorizes ATF to issue regulations to carry out the Act's provisions.

Regulations in 27 CFR Part 4, Labeling and Advertising of Wine, allow the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Title 27 CFR Part 9, American Viticultural

Areas, contains the list of approved viticultural areas.

Definition of an American Viticultural Area

Title 27 CFR 4.25a(e)(1) defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features whose boundaries have been delineated in subpart C of part 9.

Requirements

Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Anyone interested may petition ATF to establish a grape-growing region as a viticultural area. The petition must include—

- Evidence of local and/or national name recognition of the proposed viticultural area as the area specified in the petition;
- Historical or current evidence that the boundaries of the proposed viticultural area are as specified in the petition;
- Evidence of geographical characteristics, such as climate, soils, elevation, physical features, etc., that distinguish the proposed area from surrounding areas;
- A description of the specific boundaries of the proposed viticultural area, based on features reflected on maps that are approved by the United States Geological Survey (USGS) and of the largest applicable scale; and
- A copy or copies of the appropriate USGS-approved map(s) with the boundaries prominently marked.

Impact on Current Wine Labels

If this NPRM is approved, bottlers who use brand names like the name of the viticultural area may be affected. Such bottlers must ensure that their existing products are eligible to use the name of the viticultural area as an appellation of origin. For a wine to be eligible, 85 percent of the grapes in the wine must have been grown within the viticultural area(s). See 27 CFR 4.25a(e)(3).

If the wine is ineligible, the bottler must change the brand name of that wine and obtain approval of the new label. Different rules apply if a permittee labels a wine in this category with a label approved as of July 7, 1986. See 27 CFR 4.39(i).

Alexandria Lakes Petition

ATF has received a petition from Robert G. Johnson on behalf of Carlos Creek Winery, proposing to establish ''Alexandria Lakes'' as an American viticultural area. The proposed American viticultural area is located in Douglas County, Minnesota and encompasses approximately 17 square miles. Six fresh water lakes surround the area.

Name Evidence

The petitioner submitted the following as evidence that the area is locally and nationally known as Alexandria Lakes:

- The *2002 Official Visitors Guide* for the Alexandria Lakes area published by the Alexandria Lakes Area Chamber of Commerce. This guide refers to the area as the ''Alexandria Lakes Area.''
- Several brochures that refer to the proposed area as the ''Alexandria Lakes Area.''
- A letter from the Alexandria Lake Area Sanitary District referring to the proposed area as the ''Alexandria Lake Area.''

Evidence of Boundaries

The petitioner has submitted the following as boundary evidence:

- U.S.G.S. Map (Alexandria West, Minn. 1966 (revised 1994));
- U.S.G.S. Map (Alexandria East, Minn. 1966 (revised 1994));
- U.S.G.S. Map (Lake Miltona West, Minn. 1969); and
- U.S.G.S. Map (Lake Miltona East, Minn. 1969).

The proposed Alexandria Lakes viticultural area is located in Douglas County, Minnesota. The proposed boundaries do not encompass the entire land mass known by that name. According to the petitioner, current viticulture and a unique microclimate limit the boundaries to those proposed. He also indicates that the area's geographic features help define the proposed viticultural area's borders. We will discuss these features further below.

Geologic Features

The petitioner states that glacial activity formed the proposed area at the end of the last ice age, 10,000 years ago. The soil is unique because the glacial activity gouged it from the surrounding areas. The steep glacial erosion produced a geographically isolated area that the region's deepest glacial lakes surround. These lakes are not only the deepest, but by volume, they are largest in the region.

The petitioner states that the most abundant soil found in the petitioned area is of the Nebish-Beltrami association. This association is very unique in that it makes up only 5% of the county. The U.S. Department of Agriculture Soil Conservation Service (USDASCS) defines this soil as deep, well and moderately well drained. The petitioner states that vegetation in the proposed area must survive on poorer soils and must have broader root systems than vegetation grown in the surrounding regions. According to the petitioner, the higher concentration of hardwood trees in the proposed area evidence this.

By contrast, the USDASCS defines the opposing lakeshores' soil, just west and north of the proposed area, as belonging to the Waukon-Flom association, which they describe as poorly drained. The petitioner indicates that these are alluvial wash plains containing heavy lomis soils and low wetlands.

The USDASCS defines the soil associations on the opposing shores just south and east of the proposed areas as belonging to the Arvilla-Sverdrup association. These soils formed in sand or sand and gravel outwash material and are described as excessively drained.

Geographic Features

According to the petitioner, the proposed area's geographic features further distinguish it from surrounding regions. Six fresh-water lakes almost completely surround the proposed area. To the north lies Lake Miltona, which is the largest lake in Douglas County. To the east is Lake Carlos, which is, according to the Alexandria Lakes Area Chamber of Commerce, the largest lake in the Alexandria Lakes chain. South of the border are two small lakes, Lake Louise and Lake Alvin, and a medium size lake, Lake Darling. West lies Lake Ida, which is one of the largest lakes in the area.

Climate

The petitioner provided climate data for the years 1992 through 2001 from the University of Minnesota Meteorological Department's Web site. The data indicates that the proposed area receives on average more precipitation than the surrounding regions. The petitioned area's average precipitation is approximately 23.65 inches per year. By contrast, Osakis, Wadena, and Ashby Counties, which are located east, north, and west, respectively, of the petitioned area, all received between 1 to 3 more inches of precipitation per year. The petitioner states the difference is due to the seasonal southern winds that blow through the petitioned area producing moisture updrafts that result in rain clouds generally north and east of the area.

The petitioner states that the proposed area receives less annual snowfall than the surrounding regions. The petitioned area's average snowfall is approximately 47.67 inches per year. By

contrast, Osakis, Wadena, and Ashby, all receive between 4 to 8 more inches of snowfall per year.

According to the petitioner, ''the drier climate and lighter snow cover makes for lowered water tables, but watershed flowing from areas to the north and east replenish the water and maintain constant lake water levels.'' In addition, the petitioner states that the petitioned area has temperature averages that are generally warmer in the winter and cooler in the summer than those of adjacent areas.

Public Participation

Comments

We request comments from anyone interested. Please support your comments with specific information. Examples include name evidence and data about growing conditions or area boundaries.

Although we do not acknowledge receipt, we will consider your comments if we receive them on or before the closing date. We will consider comments received after the closing date if time permits. We regard all comments as originals.

You may submit comments in any of four ways.

• *By mail:* You may send written comments to ATF at the address listed in the Addresses section.

• *By facsimile:* You may submit comments by facsimile transmission to 202–927–8525. Faxed comments must—

(1) Be legible;

(2) Reference this Notice number;

(3) Be on 8½ by 11-inch paper;

(4) Contain a legible, written signature; and

(5) Be five or less pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

• *By e-mail:* You may e-mail comments to *nprm@atfhq.atf.treas.gov.* Comments transmitted by electronic-mail must—

(1) Contain your name, mailing address, and e-mail address;

(2) Reference this Notice number on the subject line; and

(3) Be legible when printed on 8½ by 11-inch paper. We will not acknowledge receipt of e-mail.

• *Online:* We provide a comment form with the online copy of this proposed rule. See the ATF Internet Web site at *http://www.atf.treas.gov.*

You may also write to the Director to ask for a public hearing. The Director reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Disclosure

You may inspect copies of the petition, the proposed regulations, the appropriate maps, and any written comments by appointment. The ATF Reading Room, Public and Governmental Affairs, is located in room 6480 at 650 Massachusetts Avenue, NW., Washington, DC 20226. You may also obtain copies at 20 cents per page. If you want to view or request copies of comments, call the ATF librarian at telephone number 202–927–7890.

For your convenience, we will post comments received in response to this Notice on the ATF Web site. All comments posted on our Web site will show the names of commenters but not street addresses, telephone numbers, or e-mail addresses. We may also omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the ATF Reading Room. To access online copies of the comments on this rulemaking, visit *http://www.atf.treas.gov/* and select ''Regulations,'' then ''Notices of proposed rulemaking (Alcohol).'' Next, select ''View Comments'' under this Notice number. Finally, select ''Notice of Proposed Rulemakings Comments'' and this Notice number.

Confidentiality

We do not recognize any submitted material as confidential. We will disclose all information that relates to the comments, including the identity of the commenters. Do not enclose in your comments any material you consider confidential or inappropriate for disclosure.

Regulatory Analyses and Notices

Paperwork Reduction Act

We propose no requirement to collect information. Therefore, the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, and its implementing regulations, 5 CFR part 1320, do not apply.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities, including small businesses. The establishment of viticultural areas represents neither ATF endorsement nor approval of the quality of wine produced in the areas. Rather, it allows identification of areas distinct from one another where a given quality, reputation, or other characteristic of the wine produced in the area is essentially attributable to its geographical origin. We believe that the establishment of viticultural areas allows wineries to describe more accurately the origin of their wines to consumers and helps consumers identify the wines they purchase. Thus, any benefit derived from the use of a viticultural area name is the result of the proprietor's efforts and consumer acceptance of wines from that area.

Executive Order 12866

This proposed rule is not a ''significant regulatory action'' as defined by Executive Order 12866. Therefore, no regulatory assessment is required.

Drafting Information

The principal author of this document is Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

ATF proposes to amend 27 CFR part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Amend subpart C by adding § 9.177 to read as follows:

§ 9.177 Alexandria Lakes

(a) *Name.* The name of the viticultural area described in this section is ''Alexandria Lakes''.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Alexandria Lakes viticultural area are the following four U.S.G.S. topographical maps (7.5 minute series 1:24000 scale):

(1) ''Alexandria West, Minn.,'' 1966, revised 1994.

(2) ''Alexandria East, Minn.,'' 1966, revised 1994.

(3) ''Lake Miltona East, Minn.,'' 1969.

(4) ''Lake Miltona West, Minn.,'' 1969.

(c) *Boundaries.* The proposed Alexandria Lakes viticultural area is located in Douglas County, Minnesota and is encompassed by 6 fresh water lakes in an area of approximately 17 square miles. The proposed boundaries are as follows:

(1) The beginning point is located on Alexandria West, Minn. map between

Lake Carlos and Lake Darling at bench mark (BM) 1366, which is an unmarked bridge on County Road 11, known as the Carlos-Darling Bridge.

(2) The boundary continues along the Carlos-Darling bridge and then northeasterly along the western shore of Lake Carlos on to the Alexandria East, Minn. map.

(3) The boundary continues along the shoreline until the point where the Lake Carlos shoreline parallels an unlabeled road known as County Road 38.

(4) The boundary continues north along County Road 38 until it intersects with an unlabeled road known as County Road 62.

(5) The boundary continues north along County Road 62 on to the Lake Miltona, East, Minn. map and then on to an unlabeled road known as Buckskin Road.

(6) The boundary continues north on Buckskin Road to the point at BM 1411.

(7) From BM 1411, the boundary continues north in a straight line to the south shoreline of Lake Miltona.

(8) The boundary continues generally west along the south shoreline of Lake Miltona on to the Lake Miltona West, Minn. map until the southern shoreline parallels an unlabeled road known as Krohnfeldt Drive.

(9) The boundary continues south and then west along Krohnfeldt Drive until it intersects with an unlabeled road known as County Road 34.

(10) The boundary continues south along County Road 34 until the point where County Road 34 runs parallel to Lake Ida's eastern shoreline.

(11) The boundary continues south along Lake Ida's eastern shoreline then on to the Alexandria West, Minn. map to the point where two unlabeled roads known as Burkey's Lane and Sunset Strip Road intersect.

(12) The boundary continues south along Sunset Strip Road to the point where it intersects with an unlabled road known as County Road 104.

(13) The boundary continues generally east along County Road 104 until it intersects with an unlabeled road known as County Road 34.

(14) The boundary continues east along County Road 34 until it intersects with an unlabeled road known as County Road 11.

(15) The boundary continues east along County Road 11 to the beginning point for the area at BM 1366, known as the Carlos-Darling Bridge.

Signed: January 14, 2003.

Bradley A. Buckles,

Director.

[FR Doc. 03–1527 Filed 1–22–03; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 271–0374b; FRL–7427–7]

Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District and Yolo-Solano Air Quality Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Santa Barbara County Air Pollution Control District (SBCAPCD) and the Yolo-Solano Air Quality Management District (YSAQMD) portions of the California State Implementation Plan (SIP). These revisions concern the emission of particulate matter (PM–10) from open fires and prescribed burning and the emission of volatile organic compounds (VOCs) from the transfer of gasoline at dispensing facilities. We are proposing to approve local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by February 24, 2003.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted rule revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see a copy of the submitted rule revisions and TSDs at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, (Mail Code 6102T), Room B–102, 1301 Constitution Avenue, NW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, Suite B–23, Goleta, CA 93117.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616.

A copy of a rule may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.htm.* This is not an EPA Web site and it may not contain the same version of the rule that was submitted to EPA. Readers should verify that the adoption date of the rule listed is the same as the rule submitted to EPA for approval and be aware that the official submittal is only available at the agency addresses listed above.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of local SBCAPCD Rule 401 and YSAQMD Rule 2.22. In the Rules section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: December 4, 2002.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 03–1363 Filed 1–22–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 401

[USCG–2002–11288]

RIN 2115–AG30

Rates for Pilotage on the Great Lakes

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking and public meeting.

SUMMARY: The Coast Guard proposes to update the rates for pilotage on the Great Lakes. We must by law review these rates annually, and we have reviewed them. We propose to change the pilotage rates for the shipping season of 2003 on the Great Lakes, both to generate sufficient funds for allowable expenses and to ensure that the pilots receive target compensation.

DATES: Comments and related material must reach the Docket Management Facility on or before March 10, 2003. A public meeting will be held January 31, 2003.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket,

please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2002–11288), U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, call Tom Lawler, Chief Economist, Office of Great Lakes Pilotage, Commandant (G–MW–1), U.S. Coast Guard, at 202–267–1241, by fax 202–267–4700, or by email at *tlawler@comdt.uscg.mil.* For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–2002–11288), 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 mail, hand delivery, fax, or electronic means 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 hand 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 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 proposed rule in view of them.

Public Meeting

A public meeting will be held from 2 p.m. to 4 p.m. on January 31, 2003, in Room B–1, Anthony J. Celebrezze Federal Building, 1240 East Ninth Street, Cleveland, OH 44199–2060. This meeting may close early if all business is finished.

Written material and requests to make oral presentations can be sent to: Margie Hegy, Commandant (G–MW), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001.

Persons who are unable to attend the public meeting are encouraged to send written comments to the Docket Management Facility as directed under **ADDRESSES** during the comment period.

Background and Purpose

Regulatory History

On May 9, 1996, the Department of Transportation published a final rule in the **Federal Register** (61 FR 21081) establishing a new methodology for setting rates for pilotage on the Great Lakes.

On February 10, 1997, the Coast Guard published a final rule in the **Federal Register** (62 FR 5917) utilizing for the first time the newly established methodology that amended the rates for pilotage on the Great Lakes.

On December 14, 1998, the Coast Guard published a notice of findings on annual review in the **Federal Register** (63 FR 68697) announcing the results of the 1998 rate review and requesting comments. The rates were not amended as a result of this rate review.

On July 12, 2001, the Coast Guard published a final rule in the **Federal Register** (66 FR 36484) amending the rates for pilotage on the Great Lakes.

On July 19, 2002, as the result of a lawsuit filed by District Two, the Coast Guard published a temporary final rule in the **Federal Register** (67 FR 47464) entitled ''Basic Rates and Charges on Lake Erie and the Navigable Waters From Southeast Shoal to Port Huron, MI''. The rule returned the rate in District Two, Area 5, to the one that was in place prior to August 13, 2001.

On August 26, 2002, the Coast Guard published a notice of meetings in the **Federal Register** (67 FR 54836) for four public meetings to be held in regard to issues relevant to Great Lakes Pilotage Bridge Hour Standards. The Coast Guard also announced it is conducting a review to determine the appropriate bridge hour standards.

Purpose of This Notice of Proposed Rulemaking (NPRM)

The Coast Guard must, under 46 CFR 404.1(b), conduct an annual review of the rates for pilotage on the Great Lakes using the procedures found at Appendix C to 46 CFR part 404. In addition, every five years the Coast Guard must perform a review using the methodology contained in 46 CFR part 404, Appendix A. At Step 2.A of Appendix A, we explain the target pilot compensation for pilots providing service on designated waters of the Great Lakes is approximately the average annual compensation for masters on U.S. Great Lakes vessels. The target pilot compensation for pilots providing service on undesignated waters of the Great Lakes is approximately the average annual compensation for first mates of such vessels. We have reviewed the current pilotage rates and determined that they should be adjusted to meet target pilot compensation and allowable expenses. Therefore, in accordance with 46 U.S.C. 9303(f), and on the basis of the rate review for 2002, we propose to amend the rates for pilotage on the Great Lakes to meet these needs. We would like your comments on the updated rates.

Relationship of This Rulemaking to the Coast Guard's Ongoing Bridge Hour Study

On July 1, 2002, the Assistant Commandant for Marine Safety, Security and Environmental Protection, commissioned a study to review the methodology for developing bridge hour standards for Great Lakes pilotage (67 FR 54836 (August 26, 2002)). This Bridge Hour Study is scheduled to be completed by January 31, 2003. The Study will explore the historical development of the bridge hour standard currently used in the ratemaking methodology for U.S. Great Lakes pilots. The goal of this study is to determine what the appropriate bridge

hour standard for designated and undesignated waters should be in each of the three Districts. It will explore issues such as whether the bridge hour standard should include hours associated with delay, detention, cancellation, and travel time.

The findings of the Bridge Hour Study could cause the Coast Guard to modify the current bridge hour standard. Any significant modification in the bridge hour standard would, in turn, have a significant effect on the rate for 2003 under the existing methodology. The Coast Guard considered holding up the ratemaking process until the results of the Bridge Hour Study were available and the Coast Guard made any subsequent modifications to the bridge hour standard. Militating against this approach however, were the results of the Coast Guard's annual and five-year audits, that indicated that the 2003 season would see a substantial adjustment in the rates. Ultimately, the Coast Guard concluded that because it projected a substantial rate adjustment for 2003, it should not delay the process, but should have the new rate published before the beginning of the new season. Accordingly, the Coast Guard intends to issue an interim rule on or before February 14, 2003, to be effective March 15, 2003, in time for the new season.

Once it completes its evaluation of the Bridge Hour Study, the Coast Guard intends to issue a final rule that incorporates any appropriate modifications to the bridge hour standard along with any corresponding modification in pilotage rates. The Coast Guard will provide notice of any proposed changes and solicit and consider public comments, as well as input from the Great Lakes Pilotage Advisory Committee, before issuing its final rule.

What Is the Coast Guard Proposing in This Rulemaking?

We propose to change the pilotage rates for waters treated in 46 CFR 401.405, 401.407, and 401.410 as follows:

If you require pilotage in:	The rate would:
Area 1 (Designated)	Increase 23%.
Area 2	Increase 62%.
Area 4	Increase 31%.
Area 5 (Designated)	Increase 17%.
Area 6	Increase 20%.
Area 7 (Designated)	Increase 3%.
Area 8	Increase 28%.

We also propose to increase the pilotage rates for the ''Cancellation, delay or interruption in rendering services'' and ''Basic rates and charges for carrying a U.S. pilot beyond normal change point or for boarding at other than the normal boarding point'' in 46 CFR 401.420 and 401.428, respectively, by 25 percent—the average rate change for all districts.

Discussion of Methodology

This proposed rulemaking follows the methodology detailed in 46 CFR part 404, Appendix A, including the step-by-step five-year ratemaking calculations contained in Appendix A. We summarize these calculations in the following tables (and explain them in more detail afterwards):

TABLE A.—DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Step 1, Projection of operating expenses	$315,253	$284,253	$559,506
Step 2, Projection of target pilot compensation	$1,040,742	$734,562	$1,775,304
Step 3, Projection of revenue	$1,105,233	$629,149	$1,734,382
Step 4, Calculation of investment base	$50,000	$50,000	$100,000
Step 5, Determination of target return on investment	7.04%	7.04%	7.04%
Step 6, Adjustment determination	$1,356,243	$1,019,063	$2,375,306
Step 7, Adjustment of pilotage rates	1.23 (+23%)	1.62 (+62%)	1.37 (+37%)

TABLE B.—DISTRICT TWO

	Area 4 Lake Erie	Area 5 South-east Shoal to Port Huron, MI	Total District Two
Step 1, Projection of operating expenses	$312,726	$497,445	$810,171
Step 2, Projection of target pilot compensation	$612,135	$1,214,199	$1,826,334
Step 3, Projection of revenue	$705,015	$1,461,069	$2,166,084
Step 4, Calculation of investment base	$89,734	$140,353	$230,087
Step 5, Determination of target return on investment	7.04%	7.04%	7.04%
Step 6, Adjustment determination	$925,306	$1,712,340	$2,637,646
Step 7, Adjustment of pilotage rates	1.31 (+31%)	1.17 (+17%)	1.22 (+22%)

TABLE C.—DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Step 1, Projection of operating expenses	$616,292	$462,219	$462.219	$1,540,730
Step 2, Projection of target pilot compensation	$1,224,270	$693,828	$856,989	$2,775,087
Step 3, Projection of revenue	$1,540,306	$1,119,819	$1,030,693	$3,690,818
Step 4, Calculation of investment base	$111,668	$83,752	$83,752	$279,172
Step 5, Determination of target return on investment	7.04%	7.04%	7.04%	7.04%
Step 6, Adjustment determination	$1,841,115	$1,156,463	$1,319,623	$4,317,201

TABLE C.—DISTRICT THREE—Continued

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Step 7, Adjustment of pilotage rate	$1.20 (+20%)	1.03 (+3%)	1.28 (+28%)	1.17 (+17%)

Here is a detailed explanation of our step-by-step calculations:

Step 1.A: Submission of Financial Information

The first step is gathering financial data from each of the three Great Lakes pilots' districts. Each district must obtain an audit by an independent Certified Public Accountant (CPA) and submit it to the Acting Director (the Director) of Great Lakes Pilotage, in accordance with 46 CFR 403.300.

Step 1.B: Determination of Recognizable Expenses

The Director determines which association expenses will be recognized for ratemaking purposes each year. The Director hires an independent CPA to review the expenses reported by the associations using the guidelines contained in 46 CFR 404.05. To determine which expenses were reasonable and necessary to include in our 2002 rate review, we used the Director's independent audit of the associations for 2001. In the following paragraphs, we discuss some of the audit's details. We have also provided a table containing the expenses recognized and approved by the Director.

We calculate target pilot compensation for both designated and undesignated waters each year based on the current union contract for first mates on U.S. Great Lakes vessels. We add that amount to the total expenses to determine the revenue needed for ratemaking purposes.

In 2001, to support safety and ongoing professional development, each association was asked to develop a continuing education program for registered pilots and to submit to the Director a proposed annual budget. The purpose of the program is to keep registered pilots aware of safety issues and to refresh their skills. The Director approved each district's program together with their estimate of yearly costs (District One, $30,000; District Two, $40,000; and District Three, $50,000) and included these amounts in their respective expense bases in the final rule published on July 12, 2001, in the **Federal Register** (63 FR 68697) with the new rates becoming effective August 13, 2001. The Director's 2001 audit disclosed that the pilots' associations during the remainder of the 2001 navigation season were only able to expend approximately 50 percent of the Director's training allocation that was included in the final rule (63 FR 68697). Therefore, the Director is adjusting the expense base of each pilots' association to reflect the full amount the Director previously approved (District One, $30,000; District Two, $40,000; and District Three, $50,000). This will ensure adequate funding for this program on a continuing yearly basis. The Director will continually monitor the plans to ensure they are effectively implemented, that the money is accounted for and applied properly to each district's continuing education account. The Director reserves the right to modify each plan as necessary.

Accordingly, the Director has added the following amounts to each district's expense base to support this program on a yearly basis:

	District One	District Two	District Three
2001 Expenditure	$8,128	$19,500	$25,000
Director's Adjustment	21,872	20,500	25,000
Total Yearly Training	30,000	40,000	50,000

Additionally, effective August 1, 2002, the current union contract for first mates on the Great Lakes stipulates: ''that employers will make matching contributions for each participating 401(k) plan employee in an amount equal to 50 percent of the employee's contribution, to a maximum of 5 percent of a participating employee's compensation.'' District Two has a pension plan, while District Three has a 401(k) plan. District One does not provide either a 401(k) or pension plan for its members. Therefore, to conform to the current union contract for first mates in accounting for an employer's contribution of 50 percent, expense bases of Districts Two and Three are increased by $41,817 and $66,159 based on their total employee 401(k)/pension contributions in 2001 of $83,634 and $132,318, respectively.

The following table displays audit results, along with the CPA's and Director's adjustments:

RECOGNIZABLE EXPENSES

	District One	District Two	District Three
Reported expenses for 2001	$687,591	$1,386,376	$1,336,710
Proposed adjustments (independent CPA)	*Equalization Between Districts:*	*Equalization Between Districts:*	*Equalization Between Districts:*
	$10,120	None	$143,035
	$62,096		$152,535

RECOGNIZABLE EXPENSES—Continued

	District One	District Two	District Three
	Reimbursed Expenses: ($13,000)	*Reimbursed Expenses:* ($83,376) ($174,414) ($211,849)	*Reimbursed Expenses:* ($163,207)
	Not Recognized or Allowed: ($782) ($43,100)	*Not Recognized or Allowed:* ($74) ($720) ($28,124)	*Not Recognized or Allowed:* ($995) ($19,780)
	Misclassified Expenses: ($4,500) ($11,740) ($120,377)	*Misclassified Expenses:* ($8,600) ($20,470)	*Misclassified Expenses:* ($4,050) ($23,100)
	Undocumented Expenses: None	*Undocumented Expenses:* ($125,559)	*Undocumented Expenses:* None
Total expenses 2001 +	$566,308	$733,190	$1,421,148
Inflation adjustment (2%)	$11,326	$14,664	$28,423
Director's adjustments	$21,872	$20,500 $41,817	$25,000 $66,159
Total projected expenses for 2003 pilotage season	$599,506	$810,171	$1,540,730

The following is a summary of the independent CPA's major findings and proposed adjustments, along with the Director's corresponding adjustments:

Summary of Major Findings and Proposed Adjustments

We divided the adjustments we made to the reported expenses into five categories: (1) equalization among districts, (2) reimbursed expenses, (3) expenses not reasonable or necessary for pilotage services (46 CFR 404.5(a)), (4) misclassified expenses, and (5) undocumented expenses.

(1) Equalization Among Districts

The Coast Guard must ensure that each association's expenses are analyzed fairly and consistently with the other associations because of how they are organized. The associations of Districts One and Three are organized as partnerships, while the association of District Two is organized as a corporation. Because of this difference, the District Two association pays the employer's share of Social Security and Medicare taxes, insurance, and travel expenses out of corporate funds. In the associations of Districts One and Two, the individual pilots pay these expenses because each pilot is self-employed. Because these taxes, insurance, and travel expenses are legitimate business expenses that should be recognized for ratemaking purposes, funds for these expenses have been added to District One and Three's expense bases on the independent CPA's recommendation. In District One, $62,096 in Social Security and Medicare taxes, and $10,120 in travel expenses have been added to the expense base. In District Three, $143,035 in Social Security and Medicare taxes, along with $152,535 in travel expenses have been added to the expense base.

(2) Reimbursed Expenses

The independent CPA found that a number of expenses are reimbursed to the pilots' associations and recommended that these expenses should not be included in each district's expense base. Examples are reimbursement from one pilots' association to another for shared pilot boats and dispatch, reimbursement for dividends received on Workmen's Compensation premiums, and reimbursement from Canadian pilots for shared administrative expenses, dispatch, and pilot boat services.

The Director agrees with the independent CPA's recommendation to deduct these reimbursed expenses from the expense bases of the districts. Although these are legitimate business expenses, they are paid for by other districts or parties, not by the associations claiming them, and, as such, should not be included in the expense base of the district being reimbursed. In District Two, we deducted $174,414 and $83,376 in reimbursed expenses for pilotage and dispatch services and for the refund of Workmen's Compensation premiums of $211,849, from the expense base. Likewise, in District Three, we deducted $163,207 in reimbursed expenses for pilotage and in dispatch services from the expense base.

Settlement of a lawsuit in 2002 reimbursed the District One Pilots' Association $13,000 in legal fees. Accordingly, we have deducted this reimbursed amount from the expense base.

(3) Expenses Not Recognized or Not Allowed as Reasonable or Necessary for the Provision of Pilotage Services (46 CFR 404.5(a)

Excessive capital lease costs associated with the rental of two pilot boats, lobbying expenses, and certain miscellaneous expenses (advertising, business promotion, and donations) were identified as unnecessary for the provision of pilotage services.

During 2001, District Two paid Erie Leasing $62,950 in lease cost for the rental of two pilot boats. The Director considers this cost unreasonable. In 46 CFR 404.5(a)(3), it states:

> Lease costs for both operating and capital leases are recognized for ratemaking purposes to the extent that they conform to market rates. In the absence of a comparable market, lease costs are recognized for ratemaking purposes to the extent that they conform to depreciation plus an allowance for return on investment (computed as if the asset had been purchased with equity capital). The portion of lease costs that exceed these standards is not recognized for ratemaking purposes.

Using this methodology, with the cost of the pilot boats being $315,000, a market return of 7.04 percent, and a depreciation amount of $9,450, the

result is an allowable lease expense of $31,626 ($315,000 × 7.04% = $22,176 + $9,450 = $31,626). To bring pilot-boat expenses of District Two into line with those of Districts One and Three, the Director is reducing District Two's expense base by $28,124 ($59,750 rental fee − $31,626 allowable fee = $28,124 excessive lease fee).

The Director, in consultation with the District One Pilots' Association, identified $43,100 in lobbying expenses and has deducted this amount from its expense base because they are not recognized for ratemaking purposes.

In addition, the independent CPA has recommended a deduction from District One's expenses of $782 for advertising, two deductions from District Two's expenses in amounts of $74 for business promotion and $720 for donations, and $995 from District Three's expense base for donations. None of these expenses is necessary for the provision of pilotage services. The independent CPA further recommended a deduction of $19,780 from District Three's expenses for an uncollectable account or bad debt. While this treatment of bad debt is an acceptable practice for financial reporting, it is unnecessary for ratemaking in that it is a one-time, non-recurring expense. The Director agrees with the independent CPA and has deducted all these expenses from the expense bases.

(4) Misclassified Expenses

The independent CPA recommended deductions of $4,500, $11,740, and $120,377 from District One, $8,600 and $20,470 from District Two, and $4,050 and $23,100 from District Three because these payments were made directly to pilots as compensation. District One paid $4,500 to registered pilots to train temporarily registered pilots on Lake Ontario and $120,377 to an independent registered pilot for the provision of pilotage services. District Two made payments to pilots in the amount of $8,600 to attend yearly meetings. This was paid in addition to payments to pilots for travel and *per diem* expenses. Additionally, District One made payments of $11,740 in union dues, District Two made payments of $20,470 in association dues, and District Three made payments of $4,050 and $23,100 for subscriptions and union dues. The Director agrees with the independent CPA because the payments benefit pilots and will be treated as pilot compensation in accordance with 46 CFR 404.5(a)(6), and he deducted these payments from the districts' expense bases.

(5) Undocumented Expenses

A detailed inspection of District Two's expense accounts and annual audited financial statements disclosed payments of $38 daily per diem to each pilot based on days available. These payments in November 2001 and late December 2001 totaled $125,559 and were not documented. The Internal Revenue Service procedures (Rev. Proc. 2001–47) require substantiation as to time, place, and purpose of expenses paid. These payments were in addition to properly documented travel and per diem payments made throughout the year. The total combined per diem (food and incidental) expense claimed actually exceeded the maximum amount possible if every pilot would have been on travel for every day during the season. The travel regulations do not contemplate a payment based on ''days available'' for travel. The independent CPA recommended that $125,559 be deducted from District Two's expense base. The Director agrees and has deducted the amount from the expense base and treated it as pilot compensation in accordance with 46 CFR 404.5(a)(6). Properly substantiated and documented travel and per diem costs incurred while a pilot is engaged in legitimate travel in connection with the provision of pilotage service will be recognized for ratemaking purposes.

Step 1.C: Adjustment for Inflation or Deflation

To adjust expenses for inflation (there being no deflation, yet), we increased the total recognized expenses for each association by two percent. This figure is based on the approximate average change in the Consumer Price Index (CPI) from July 2001 to November 2002.

Step 1.D: Projection of Operating Expenses

Once all adjustments are made to the recognized operating expenses, the Director projects these expenses for each pilotage area. The Director considers foreseeable circumstances that could affect the accuracy of the expenses as projected and, as well as possible, determines the ''projection of operating expenses.''

District-wide general and administrative expenses are apportioned to each area according to the number of pilots in that area. Expenses that are attributable to a pilotage area are applied directly to it. For instance, in District One, approximately $31,000 in taxi expense is directly attributable to Area 1; but the remaining general and administrative expense in District One is then apportioned according to the number of pilots assigned to Areas 1 and 2. The results of Step 1.D for each district are displayed as follows:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Projection of operating expenses	$315,253	$284,253	$599,506

DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
Projection of operating expenses	$312,726	$497,445	$810,171

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Projection of operating expenses	$616,292	$462,219	$462,219	$1,540,730

Step 2.A: Determination of Target Rate of Compensation

For pilots providing service in undesignated waters, the target rate of compensation is approximately the average yearly compensation earned by first mates on U.S. Great Lakes vessels. Effective August 1, 2002, according to the American Maritime Officers Union (AMOU), the average yearly compensation is $122,427. This rate covers wages and benefits, which comprises work days, vacation pay, weekend pay, holiday pay, bonuses, clerical pay, medical and pension benefits.

For pilots providing services in designated waters, the target rate of compensation is calculated as 1.5 times the yearly salary of a first mate plus benefits, (1.5 × 100,944 = $151,416 (Yearly Salary) + $22,041 (Benefits) = $173,457 (Pilot Target Compensation effective August 1, 2002).

The Coast Guard adopted this method of calculating the rate because it most accurately achieves the stated goal of approximating the salary of a Great Lakes Master. This method is the same method we used in the final rule establishing rates in 1997 (62 FR 5917 (February 10, 1997)) and again in 2001 (66 FR 36484 (July 12, 2001)).

Effective August 1, 2002, the daily contractual rate of wages for first mates is $207.70. We multiply the daily rate by 54 days (30.5 work days, 15 vacation days, 4 weekend days, 1.5 holidays, and 3 bonus days) to determine the monthly rate for undesignated waters. This monthly rate is then multiplied by 1.5 to determine the monthly rate for designated waters (monthly rate for undesignated waters × 1.5 = monthly rate for designated waters). Only then is the cost of benefits (pensions, health care, and clerical support) added to the monthly rates for both undesignated and designated waters. These figures are then multiplied by 9 to yield total yearly target pilot compensation. The calculation goes as follows: the daily rate of wages specified in the first mates' union contract, effective August 1, 2002, is $207.70. The daily rate is then multiplied by 54 to determine the monthly rate, $11,216. Added to this figure are the monthly costs of first mates' clerical support, $126; health benefits, $1,748; and their pension, $513. The monthly total of wages and benefits comes to $13,603. This figure is then multiplied by 9 to yield a total target pilot compensation for undesignated waters of $122,427.

For designated waters, the monthly rate of wages, calculated above, is multiplied by 1.5, totaling $16,824. To this figure, we add the monthly cost of a masters' clerical support, $188; the monthly health benefits, $1,748; and the monthly cost of their pension benefits, $513. The monthly total of wages and benefits now comes to $19,273. This figure is then multiplied by 9, to yield a total target pilot compensation for designated waters of $173,457.

The table below summarizes how the total target pilot compensation is determined for undesignated and designated waters:

Monthly component [1]	Monthly (First Mate) pilots on undesignated waters	Monthly (Master) pilots on designated waters
$207.70 (Daily Rate) × 54 (Days)	$11,216	.....
$207.70 (Daily Rate) × 54 × 1.5	.....	$16,824
Clerical	126	188
Health [2]	1,748	1,748
Pension [3]	513	513
Monthly Total	13,603	19,273
Monthly Total × 9 Months	122,427	173,457

[1] For the purposes of the 2002 rate review, pilots are assumed to work 180 man days a year for a total of 270 days for both health and pension benefits (180 working days a year/60 = 3, 3 x 30 = 90 extra days of payments; 180 working days + 90 days of extra payments = 270 days of payments.

[2] Health benefits are $15,372 a year, or $1,748 a month for nine months (270 paid days a year x $58.26 a day worked =$15,372 of compensation/9 months = $1,748 a month.)

[3] Pension benefits are paid at the same proportion as the health benefits, though at a daily rate of $17.09. Using the same methodology as for the health benefits, yearly pension benefits are $4,608 a year, or $513 a month for nine months (270 paid days a year x $17.09 a day worked = $4,608 a year; $4,614 a year/9 months = $513 a month.)

Step 2.B: Determination of Number of Pilots Needed

The number of pilots needed in each area is determined by dividing the projected bridge hours, excluding delay and detention hours for each area, by the targets for each area *i.e.*, 1,000 hours in designated waters and 1,800 hours in undesignated waters. Projected bridge hours are based on the vessel traffic that pilots are expected to serve. The Director projects that bridge hours for the 2003 season will be the same as or comparable to the totals of 2001.

Dividing the projected annual number of bridge hours per area by the target number of bridge hours per pilot determines the number of pilots required in each area to service vessel traffic.

Pilotage area	Projected 2003 bridge hours	Divided by bridge-hour target	Pilots required
Area 1	5,407	1,000	5.4
Area 2	6,130	1,800	3.4
Area 4	8,298	1,800	4.6
Area 5	6,395	1,000	6.4
Area 6	19,016	1,800	10.5
Area 7	4,320	1,000	4.3
Area 8	12,354	1,800	6.9

The following bullets list the number of pilots, by area, the Director has authorized for the 2003 navigation season:

- Area 1: Six pilots.
- Area 2: Six pilots.
- Area 4: Five pilots.
- Area 5: Seven pilots.
- Area 6: 10 pilots.
- Area 7: Four pilots.
- Area 8: Seven pilots.

In authorizing the number of pilots for each pilotage area, the Director has rounded up the number of pilots required in Areas 1, 2, 4, and 5, from the above table, for Districts One and Two to insure adequate pilot availability. Furthermore, the Director has approved two additional pilots for Area 2 for a total of six pilots to equal the number of Canadian pilots assigned to Lake Ontario. This is necessary to ensure pilotage assignments are divided equally between the United States and Canada, as specified in the Memorandum of Arrangements between the Secretary of Transportation of the United States and the Minister of Transport of Canada.

In District Three, however, the Director has rounded down the number of pilots in Area 7 (designated waters) to four and rounded down the total number of pilots required in the undesignated waters of Areas 6 and 8 (10.5 + 6.9 = 17.4) to 17 because District Three employs additional contract pilots to cover surges in vessel traffic during the navigational season.

Step 2.C: Projection of Target Pilot Compensation

Target pilot compensation for each pilotage area is determined by multiplying the target compensation for each area by the number of pilots in each area (*i.e.*, six pilots are required in Area 1, target compensation for the designated waters of Area 1 is $173,457, 6 × $173,457 = $1,040,742). The results for each pilotage area are summarized below:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Projection of target pilot compensation	$1,040,742	$734,562	$1,775,304

DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
Projection of target pilot compensation	$612,135	$1,214,199	$1,826,334

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Projection of target pilot compensation	$1,224,270	$693,828	$856,989	$2,775,087

Step 3.A: Projection of Revenue

The economic slowdown that began in 1999 has steadily precipitated a significant decline in Seaway traffic during the 2001 navigation season. The most notable sign was a downturn in consumer demand for durable goods, which caused a reduction in the flow of imported steel. This combined with a poor grain harvest in the Midwest and Canada resulted in the lowest cargo volumes on the Great Lakes since 1993. Short-term prospects for trade are not very encouraging considering the imposition of steel tariffs of up to 30 percent in March of this year, and preliminary shipping data for the 2002 navigation season already suggests that traffic could decline further. Therefore, for the purposes of this NPRM, the Director is projecting that pilotage revenue and bridge hours for the 2003 navigation season will be comparable to those of 2001. This is being done with the understanding that this projection will be adjusted as necessary in a final rule to account for 2002 data (revenue and bridge hour study) when they become available in late January 2003.

The Coast Guard published a final rule on July 12, 2001, that amended rates for pilotage services on the Great Lakes. That rule increased the rate in District One, Area 1 by 4 percent; increased the rate in Area 2 by 17 percent; increased the rate in District

Two, Area 4 by 3 percent; increased the rate in District Three, Area 6 by 4 percent; and increased the rate in Area 7 by 9 percent. There was a 5 percent decrease in the rate for Area 5, while the rate in Area 8 went unchanged.

As a result of a lawsuit filed by District Two, the Coast Guard published a temporary final rule on July 19, 2002. The rule returned the rate in District Two, Area 5, to the one that was in place prior to August 13, 2001. The result of this rule was a rate increase of 5 percent, which became effective August 20, 2002.

To accurately project 2003 revenues, we must adjust or ''align'' 2001 revenues to reflect the changes in the rates referenced above. Accordingly, the aforementioned percentage changes in pilotage rates for each pilotage area were applied (multiplied by a factor to reflect an increase or decrease) to the total pilotage revenues in each area, collected prior to August 13, 2001 (the effective date of the rate adjustment), except for District Two, Area 5. The adjusted revenues for each area were then added to the revenues collected after August 13, 2001, in each area to obtain total adjusted revenue for each area. To account for the initial rate decrease and subsequent increase in District Two, Area 5, pilotage revenues collected after August 19, 2001, were adjusted to reflect the 5 percent increase effective August 19, 2002, (*i.e.*, $782,914 × 1.05 = $822,060) and then added actual area revenues collected prior to August 19, 2001, to obtain the total adjusted revenue for Area 5.

In previous rulemakings, actual revenue for each pilotage area was not available. Only total revenue for the districts was being provided in financial statements. As a result, total revenue for each district was apportioned among pilotage areas based on the number of pilots authorized. Often this apportionment did not accurately approximate or reflect the actual revenue collected in a given pilotage area, most notably in Area 7 of District Three, where in 2001 actual revenue exceeded the apportioned amount by approximately $450,000. In the past, this apportionment caused an inflated pilotage rate in one area and also caused deflated rates in other areas. This year, with the cooperation of the districts, we were able to account for revenue in each of their respective pilotage areas. Using actual revenues greatly enhances the equity of the rate structure. The results of Step 3.A for each district are summarized below:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Projection of revenue	$1,105,233	$629,149	$1,734,382

DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron MI	Total District Two
Projection of revenue	$705,015	$1,461,069	$2,166,084

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Projection of revenue	$1,540,306	$1,119,819	$1,030,693	$3,690,818

Step 4: Calculation of Investment Base

In 46 CFR part 404, Appendix A, Step 5(3), it states that ''Assets subject to return on investment * * * must be reasonable in purpose and amount. If an asset or other investment is not necessary for the provision of pilotage services, that portion of the return element is not allowed for ratemaking purposes.'' In calculating rate of return the Director considers property, equipment and cash necessary to cover pilots' associations expenses during the three-month period the St. Lawrence Seaway is closed. Some pilots' associations throughout the course of the navigation season choose to accumulate large cash balances from revenue received for pilotage service rather than distribute the money as pilot compensation. These large cash balances are reflected on their balance sheet as cash assets at the close of the calendar year (December 31). A significant portion of these cash assets are then immediately distributed the next calendar year as pilot compensation. The net effect inflates their investment base at the end of the calendar year. The Director's inclusion of cash assets in excess of what is required to operate during this period would encourage these associations to unnecessarily inflate their investment bases and provide a source of return available to few, if any, other private businesses. An analysis of pilots' associations' investment bases indicates that, ever since the concept of return on investment was introduced into the ratemaking methodology, Districts Two and Three have greatly increased their bases. In District Two, the base went from $265,488 in 1995 to $413,998 in 1996, of which only $116,041 represented property and equipment. In District Three, it went from $119,823 in 1995 to $994,896 in 1996, of which only $25,583 represented property and equipment.

In addition to property and equipment, the Director is recognizing $100,000, $150,000, and $200,000 for inclusion in the investment base for Districts One, Two, and Three, respectively, as cash necessary to cover operating expenses during the months the St. Lawrence Seaway is closed.

The investment base (Step 4) as calculated for each district is displayed below:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Calculation of investment base	$50,000	$50,000	$100,000

DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
Calculation of investment base	$89,734	$140,353	$230,087

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Calculation of investment base	$111,668	$83,752	$83,752	$279,172

Step 5: Determination of Target Rate of Return

The target rate of return on investment (ROI) for 2002 was set at 7.04 percent. This is based on the preceding year's (2001's) average annual rate of return of new issues of high-grade corporate securities (Moody's AAA rating, average return).

Step 6: Adjustment Determination (Revenue Needed)

We made the adjustment determination (revenue needed to cover operating expenses and pilot compensation) using the numbers listed above and following the formula found in Step 6 of 46 CFR part 404, Appendix A. The results for each district are displayed below:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Adjustment determination	$1,356,243	$1,019,063	$2,375,306

DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
Adjustment determination	$925,306	$1,712,340	$2,637,646

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Adjustment determination	$1,841,115	$1,156,463	$1,319,623	$4,317,201

Step 7: Adjustment of Pilotage Rate

To determine the adjustments to pilotage rates in each area, we multiplied the current pilotage rate in the area by the rate multiplier. The rate multiplier is calculated by dividing the revenue needed (from Step 6) by the revenue projection (from Step 3) for each area. The Director proposes to amend the pilotage rates for the waters treated in 46 CFR 401.405 through 46 CFR 401.410 with the rates obtained by multiplying the current pilotage rates times the rate multiplier for each pilotage area. The Adjustments of Pilotage Rates (Step 7) for each district are displayed below:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total District One
Adjustment of pilotage rates	1.23 (23%)	1.62 (+62%)	1.37 (+37%)

DISTRICT TWO

	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI	Total District Two
Adjustment of pilotage rates	1.31 (+31%)	1.17 (+17%)	1.22 (+22%)

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total District Three
Adjustment of pilotage rate	1.20 (+20%)	1.03 (+4)	1.28 (+28%)	1.17 (+17%)

Regulatory Evaluation

This proposed 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 Transportation (DOT) (44 FR 11040 (February 26, 1979)).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This proposed rule would make adjustments to the pilotage rates paid by foreign flagged ships for the 2003 Great Lakes navigational season. While these adjustments to pilotage rates may seem relatively large they actually represent a small change to the overall cost of moving these vessels through the St. Lawrence Seaway system. The Coast Guard used the ratemaking methodology found in 46 CFR part 404, Appendix A, to identify adjustments necessary to achieve target pilot compensation and association expenses by establishing these new pilotage rates. This ratemaking methodology is designed to annually review pilotage rates in order to avoid fluctuations in pilot compensation thus avoiding large changes in pilotage rates. This notice of proposed rulemaking (NPRM) provides a step-by-step economic guide to show how the pilotage rates would be changed. The results of this proposed rulemaking are in keeping with the Coast Guard's desire for a fair and efficient pilotage system.

Small Entities

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

For the Great Lakes region, small entities potentially affected by this proposed rulemaking include shippers, ports, carriers, and shipping agents. The proposed increases in pilotage rates should not significantly affect small businesses.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. 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 to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain 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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Tom Lawler, Chief Economist, Great Lakes Pilotage (G–MW–1), U.S. Coast Guard, at 202–267–1241, by facsimile 202–267–4700, or by email at *tlawler@comdt.uscg.mil*

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

Collection of Information

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

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria in Executive Order 12612 and has determined that this proposed 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 regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not 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 proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Indian Tribal Governments

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

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361 (July 11, 2001)) requesting comments on how to best carry out the Order. We invite your comments on the impact this rule might have on tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

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

Environment

We have considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph 34 (a), of the Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule is procedural in nature because it deals exclusively with adjusting pilotage rates for the Great Lakes. A

''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 401 as follows:

PART 401—GREAT LAKES PILOTAGE REGULATIONS

1. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; 49 CFR 1.45, 1.46 (mmm), 46 CFR 401.105 also issued the authority of 44 U.S.C. 3507.

2. In § 401.405, revise paragraphs (a) and (b), including the footnote to Table (a), to read as follows:

§ 401.405 Basic rates and charges on the St. Lawrence River and Lake Ontario.

* * * * *

(a) Area 1 (Designated Waters):

Service	St. Lawrence River
Basic Pilotage	$10 per Kilometer or $17 per mile.[1]
Each Lock Transited	$219.[1]
Harbor Movage	$718.[1]

[1] The minimum basic rate for assignment of a pilot in the St. Lawrence River is $478, and the maximum basic rate for a through trip is $2,102.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
Six-Hour Period	$557
Docking or Undocking	531

3. In § 401.407, revise paragraphs (a) and (b), including the footnote to Table (b), to read as follows:

§ 401.407 Basic rates and charges on Lake Erie and the navigable waters from Southeast Shoal to Port Huron, MI.

* * * * *

(a) Area 4 (Undesignated Waters):

Service	Lake Erie (East of Southeast Shoal)	Buffalo
Six-Hour Period	$439	$439
Docking or Undocking	338	338
Any Point on the Niagara River below the Black Rock Lock	N/A	862

(b) Area 5 (Designated Waters):

Any point on or in	Southeast Shoal	Toledo or any Point on Lake Erie west of Southeast Shoal	Detroit River	Detroit Pilot Boat	St. Clair River
Toledo or any port on Lake Erie west of Southeast Shoal	$1,156	$682	$1,500	$1,156	N/A
Port Huron Change Point	[1] 2,012	[1] 2,332	1,513	1,176	837
St. Clair River	[1] 2,012	N/A	1,513	1,513	682
Detroit or Windsor or the Detroit River	1,156	1,500	682	N/A	1,513
Detroit Pilot Boat	837	1,156	N/A	N/A	1,513

[1] When pilots are not changed at the Detroit Pilot Boat.

* * * * *

4. In § 401.410, revise paragraphs (a), (b), and (c) to read as follows:

§ 401.410 Basic rates and charges on Lakes Huron, Michigan, and Superior, and the St. Mary's River.

* * * * *

(a) Area 6 (Undesignated Waters):

Service	Lakes Huron and Michigan
Six-Hour Period	$336
Docking or Undocking	319

(b) Area 7 (Designated Waters):

Area	Detour	Gros cap	Any harbor
Gros Cap	$1,479	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario	1,479	$557	N/A
Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation	1,240	557	N/A
Wharf Sault Ste. Marie, MI	1,240	557	N/A
Harbor Movage	N/A	N/A	$557

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
Six-Hour Period	$334
Docking or Undocking	319

§ 401.420 [Amended]

5. In § 401.420—

a. In paragraph (a), remove the number ''$53'' and add, in its place, the number ''$66''; and remove the number ''$831'' and add, in its place, the number ''$1,039''.

b. In paragraph (b), remove the number ''$53'' and add, in its place, the number ''$66''; and remove the number ''$831'' and add, in its place, the number ''$1,039''.

c. In paragraph (c)(1), remove the number ''$314'' and add, in its place, the number ''$392''; in paragraph (c)(3), remove the number ''$53'' and add, in its place, the number ''$66''; and, also in paragraph (c)(3), remove the number ''$831'' and add, in its place, the number ''$1,039''.

§ 401.428 [Amended]

6. In § 401.428, remove the number ''$321'' and add, in its place, the number ''$401''.

Dated: December 20, 2002.

Paul J. Pluta,

Rear Admiral, Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 03–1461 Filed 1–17–03; 2:01 pm]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94–102; IB Docket No. 99–67; FCC 02–326]

Basic and Enhanced 911 Provision by Currently Exempt Wireless and Wireline Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document initiates a reevaluation of the scope of communications services that should provide access to basic and enhanced emergency services. The action is needed to establish a record on which to decide whether remains appropriate to continue to exempt certain wireless and wireline service providers from 911 and Enhanced 911 (E911) regulations and requirements.

DATES: Comments are due on or before February 3, 2003. Reply Comments are due on or before February 28, 2003.

FOR FURTHER INFORMATION CONTACT: Gregory W. Guice, Attorney Advisor, Policy Division, (202) 418–0095; David Siehl, Attorney Advisor, Policy Division, (202) 418–1313; Arthur Lechtman, Attorney Advisor, Policy Branch, (202) 418–1465.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking, (FNPRM) released December 20, 2002 (FCC 02–326). The full text of the FNPRM available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text also may be purchased from the Commission's copy contractor. Copies may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.* Additionally, the complete item is available on the Commission's Web site at *http://www.fcc.gov/wtb.*

Synopsis of the FNPRM

1. In this FNPRM, the Commission seeks comment on whether providers of various services and devices not currently within the scope of the Commission's 911 rules should, consistent with the public interest, be

required to provide access to emergency services. The Commission also asks what type of information, such as call-back and location should be delivered to Public Safety Answering Points (PSAPs) on a service-by-service basis.

2. Specifically, the Commission seeks comment on the general criteria that it wants commenters to use in analyzing whether the enumerated services and devices should be included within the scope of services that offer 911 service. The Commission proposes analyzing each service or product based on whether: (1) It offers real-time, two-way voice service that is interconnected to the public switched network on either a stand-alone basis or packaged with other telecommunications services; (2) the customers using the service or device have a reasonable expectation of access to 911 and E911 services; (3) the service competes with traditional CMRS or wireline local exchange services; and (4) it is technically and operationally feasible for the service or device to support E911.

3. The FNPRM then turns to the individual services on which the Commission seeks comment and raises additional questions where needed. The enumerated services are mobile satellite service, telematics service, multi-line telephone systems, resold cellular and PCS service, pre-paid calling, disposable mobile phones, automated maritime telecommunications systems, and other emerging services and devices, such as IP telephony.

Administrative Matters

Initial Regulatory Flexibility Analysis

4. As required by the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the proposals suggested in this Further Notice of Proposed Rule Making. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments filed in this FNPRM, and must have a separate and distinct heading designating them as responses to the IRFA. This is a summary of the full text of the IRFA. The full text of the IRFA may be found at Appendix B of the full text of the FNPRM.

5. As required by the Regulatory Flexibility Act, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Further Notice of Proposed Rulemaking (Further Notice), CC Docket No. 94–102 and IB Docket No. 99–67. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further Notice. The Commission will send a copy of the Further Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 603(a). In addition, the Further Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

6. The Further Notice initiates a reevaluation of the scope of communications services that should provide access to emergency services. The Further Notice examines and seeks comment on the need to require compliance with the Commission's basic and enhanced 911 (E911) rules, or similar requirements, by various other mobile wireless and certain wireline voice and data services. The Further Notice considers whether existing services such as telematics or voice service provided by multi-line systems should be required to provide access to 911 service. The Further Notice also considers whether certain new services should be subject to any E911 requirements. The Further Notice additionally seeks comment on the impact that exclusion of these services and devices from the Commission's 911 rules may have on consumers, as well as the technological and cost issues involved in providing E911, taking into account the expectations of consumers for 911 service when they use these services and devices. The Further Notice of Proposed Rulemaking also seeks comment on a proposal to require mobile satellite service (MSS) providers (in particular, MSS providers offering real-time, interconnected two-way voice service) to establish emergency call centers to answer 911 emergency calls.

B. Legal Basis for Proposed Rules

7. The proposed action is authorized under Sections 1, 4(i), 7, 10, 201, 202, 208, 214, 222(d)(4)(A)–(C), 222(f), 222(g), 222(h)(1)(A), 222(h)(4)–(5), 251(e)(3), 301, 303, 308, 309(j), and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 157, 160, 201, 202, 208, 214, 222(d)(4)(A)–(C), 222(f), 222(g), 222(h)(1)(A), 222(h)(4)–(5), 251(e)(3), 301, 303, 308, 309(j), 310.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

8. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under Section 3 of the Small Business Act. Under the Small business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations.

9. The definition of ''small governmental jurisdiction'' is one with populations of fewer than 50,000. There are 85,006 governmental entities in the nation. This number includes such entities as states, counties, cities, utility districts and school districts. There are no figures available on what portion of this number has populations of fewer than 50,00. However, this number includes 38,978 counties, cities and towns, and of those, 37,556, or ninety-six percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all government entities. Thus, of the 85,006 governmental entities, we estimate that ninety-six percent, or about 81,600, are small entities that may be affected by our rules.

10. Individual voice services and devices that are examined as to appropriateness for 911 and E911 service provision include: mobile satellite service, telematics service, multi-line telephone systems, resold cellular and personnel communications service, pre-paid calling, disposable phone, automated maritime telecommunications systems, and emerging services and devices.

11. We have included small incumbent LECs in this RFA analysis. As noted above, a ''small business'' under the RFA is one that, inter alia, meets the pertinent small business size standard (*e.g.*, a telephone

communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

12. *Incumbent Local Exchange Carriers.* Neither the Commission nor the SBA has developed a specific small business size standard for providers of incumbent local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's Telephone Trends Report data, 1,329 incumbent local exchange carriers reported that they were engaged in the provision of local exchange services. Of these 1,329 carriers, an estimated 1,024 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, we estimate that the majority of providers of local exchange service are small entitles that may be affected by the rules and policies adopted herein.

13. *Competitive Local Exchange Carriers.* Neither the Commission nor the SBA has developed a specific small business size standard for providers of competitive local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's Telephone Trends Report data, 532 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 532 companies, an estimated 411 have 1,500 or fewer employees and 121 have more than 1,500 employees. Consequently, the Commission estimates that the majority of providers of competitive local exchange service are small entities that may be affected by the rules.

14. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a specific size standard for competitive access providers (CAPS). The closest applicable standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's Telephone Trends Report data, 532 CAPs or competitive local exchange carriers and 55 other local exchange carriers reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 532 competitive access providers and competitive local exchange carriers, an estimated 411 have 1,500 or fewer employees and 121 have more than 1,500 employees. Of the 55 other local exchange carriers, an estimated 53 have 1,500 or fewer employees and 2 have more than 1,500 employees. Consequently, the Commission estimates that the majority of small entity CAPS and the majority of other local exchange carriers may be affected by the rules.

15. *Local Resellers.* The SBA has developed a specific size standard for small businesses within the category of Telecommunications Resellers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's Telephone Trends Report data, 134 companies reported that they were engaged in the provision of local resale services. Of these 134 companies, an estimated 131 have 1,500 or fewer employees and 3 have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers may be affected by the rules.

16. *Toll Resellers.* The SBA has developed a specific size standard for small businesses within the category of Telecommunications Resellers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the FCC's Telephone Trends Report data, 576 companies reported that they were engaged in the provision of toll resale services. Of these 576 companies, an estimated 538 have 1,500 or fewer employees and 38 have more than 1,500 employees. Consequently, the Commission estimates that a majority of toll resellers may be affected by the rules.

17. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to providers of interexchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's Telephone Trends Report data, 229 carriers reported that their primary telecommunications service activity was the provision of interexchange services. Of these 229 carriers, an estimated 181 have 1,500 or fewer employees and 48 have more than 1,500 employees. Consequently, we estimate that a majority of IXCs may be affected by the rules.

18. *Operator Service Providers.* Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to operator service providers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's Telephone Trends Report data, 22 companies reported that they were engaged in the provision of operator services. Of these 22 companies, an estimated 20 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that a majority of local resellers may be affected by the rules.

19. *Prepaid Calling Card Providers.* The SBA has developed a size standard for small businesses within the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's Telephone Trends Report data, 32 companies reported that they were engaged in the provision of prepaid calling cards. Of these 32 companies, an estimated 31 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that a majority of prepaid calling providers may be affected by the rules.

20. *Mobile Satellite Service Carriers.* Neither the Commission nor the U.S. Small Business Administration has developed a small business size standard specifically for mobile satellite service licensees. The appropriate size standard is therefore the SBA standard for Satellite Telecommunications, which provides that such entities are small if they have $12.5 million or less in annual revenues. Currently, nearly a dozen entities are authorized to provide voice MSS in the United States. We have ascertained from published data that four of those companies are not small entities according to the SBA's definition, but we do not have sufficient information to determine which, if any, of the others are small entities. We anticipate issuing several licenses for 2 GHz mobile earth stations that would be subject to the requirements we are adopting here. We do not know how many of those licenses will be held by small entities, however, as we do not yet know exactly how many 2 GHz mobile-earth-station licenses will be issued or who will receive them. The Commission

notes that small businesses are not likely to have the financial ability to become MSS system operators because of high implementation costs, including construction of satellite space stations and rocket launch, associated with satellite systems and services. Still, we request comment on the number and identity of small entities that would be significantly impacted by the proposed rule changes.

21. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to ''Other Toll Carriers.'' This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's Telephone Trends Report data, 42 carriers reported that they were engaged in the provision of ''Other Toll Services.'' Of these 42 carriers, an estimated 37 have 1,500 or fewer employees and five have more than 1,500 employees. Consequently, the Commission estimates that a majority of ''Other Toll Carriers'' may be affected by the rules.

22. *Wireless Service Providers.* The SBA has developed a size standard for small businesses within the two separate categories of Cellular and Other Wireless Telecommunications or Paging. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's Telephone Trends Report data, 1,761 companies reported that they were engaged in the provision of wireless service. Of these 1,761 companies, an estimated 1,175 have 1,500 or fewer employees and 586 have more than 1,500 employees. Consequently, we estimate that a majority of wireless service providers may be affected by the rules.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

23. The reporting, recordkeeping, or other compliance requirements ultimately adopted will depend on the rules adopted and the services subject to those rules. First, any and all of the affected entities who the Commission finds appropriate to provide 911 and E911 services (*See* General Criteria, for example, in paragraphs 12–15 of the Further Notice) would need to comply with the Commission's basic or enhanced 911 rules. This would involve a schedule for implementing 911 and E911 service, and possibly regulations mandating the provision of automatic number identification (ANI), possible software modification to assist in recognition of single or multiple emergency numbers, and provision of automatic location information (ALI) and interference precautions as well as regulations specific to individual services. Additionally, paragraphs 17–27 of the Further Notice propose that all Mobile Satellite Service (MSS) licensees provide real-time, two-way, switched voice service that is interconnected with the public switched network establish national call centers to which all subscriber emergency calls are routed. Call center personnel, and would then determine the nature of the emergency and forward the call to an appropriate Public Safety Answering Point (PSAP). As noted in paragraph 14 of the Further Notice, the Commission invites comment on how the various services at issue, *i.e.* individual voice services and devices, relate to the provision of access to emergency services for persons with disabilities. (Paragraph 14 of the Further Notice.)

24. The Further Notice, in paragraphs 57–80, considers possible 911 and E911 regulation for the telematics service. Telematics can be generally defined as the integrated use of location technology and wireless communication to enhance the functionality of motor vehicles. In that regard, paragraphs 65–73 of the Further Notice analyzes the plus and minuses and prospective regulations associated with telematics systems providing access to PSAPs through an intermediary or jointly packaged mobile voice service. Paragraph 70, suggests that telematics systems give notice to consumers regarding any current limitations of telematics service in directly transmitting emergency information to a PSAP. Paragraphs 74–75 suggest a requirement that telematics providers deliver automatic crash notification data to PSAPs This requirement raises possible issues of technical modifications and coordination between telematics providers and PSAPs.

25. The Further Notice, in paragraphs 81–91, examines whether to require multi-line telephone systems, including wireline, wireless, and Internet Protocol-based systems, to deliver call-back and location information. Possible requirements that the Further Notice suggests if the Commission decides that multi-line telephones systems should provide these services include technical standards as discussed in paragraphs 86–90 of the Further Notice. Paragraphs 92–97 of the Further Notice discuss issues that arise when consumers buy service from carriers and other service providers that resell minutes of use on facilities-based wireless carriers' networks. In that regard, the Further Notice raises the possibility of requiring the underlying facilities-based licensee to ensure that its resellers offer basic and E911 service compatible with its method of providing these services, or whether the resellers should be held accountable. Similarly, paragraphs 98–102 seek comment on whether the Commission should impose E911 requirements directly on pre-paid calling providers that are not also licensees or whether the underlying licensee should be required to ensure compliance with the E911 rules by the pre-paid calling provider.

26. Paragraphs 103–106 of the Further Notice discuss the possibility of access to emergency service by consumers who purchase disposable mobile handsets. In this case, the Further Notice notes that disposable handsets are a new product offering and as such, the Commission has little information on these devices. However, the Further Notice invites comment on whether, if disposable phone service is determined to be appropriate for offering 911 and E911 services, requiring mobile wireless service providers to ensure that the handsets used to access their networks comply with the 911 and E911 rules is sufficient or whether the Commission should place the burden for compliance on manufacturers of these handsets. If it is also determined that these handsets do not provide PSAPs with an opportunity to contact the handset user for further critical location information if necessary, some time of regulatory solution, such as a readily identifiable code to notify the PSAP that the incoming call is placed from a handset which does not offer call-back capability, could be adopted. The Further Notice also seeks comment on whether to extend 911 and E911 regulation to automated maritime telecommunications systems (paragraphs 107–110) and to emerging voice services and devices (paragraphs 111–115).

27. Other regulations and requirements are possible for those services discussed in the Further Notice found suitable for 911 and E911 service. Such rules and requirements could be found appropriate, based on comment filed in response to the Further Notice and would be designed to meet the consumer needs and licensee situations in each service and service area.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

28. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

29. The critical nature of the 911 and E911 proceedings limit the Commission's ability to provide small carriers with a less burdensome set of E911 regulations than that placed on large entities. A delayed or less than adequate response to an E911 call can be disastrous regardless of whether a small carrier or a large carrier is involved. The various licensees scrutinized in the Further Notice have been exempt to date from the Commission's 911 and E911 regulations as the Commission sought information from which to judge the appropriateness of requiring that those services provide 911 and E911 service. The Further Notice continues this examination and reflects the Commission's concern that only those entities that can reasonably be expected to provide emergency services, financially and otherwise, be asked to provide this service. The Further Notice affords small entities another opportunity to comment on the appropriateness of the affected services providing emergency services and on what the Commission can due to minimize the regulatory burden on those entities who meet the Commission's criteria for providing such service.

30. Throughout the Further Notice, the Commission tailors its request for comment to devise a prospective regulatory plan for the affected entities, emphasizing the individual needs of the service providers and manufacturers as well as the critical public safety needs at the core of this proceeding. The Commission will consider all of the alternatives contained not only in the Further Notice, but also in the resultant comments, particularly those relating to minimizing the effect on small businesses.

31. The most obvious alternatives raised in the Further Notice are whether the services under discussion should be required to comply with the Commission's basic and enhanced 911 rules or whether the Commission should continue to exempt these entities from providing this service. The Further Notice, to assist in this discussion, suggests, in paragraphs 12–15, criteria to determine the appropriateness of each service under consideration to provide emergency services. These criteria are open for comment and this provides an excellent opportunity for small entity commenters and others concerned with small entity issues. Again, we seek comment to determine the appropriate service groups to provide critical services.

32. Along these lines, discussion of criteria and alternatives could focus on implementation schedules. In discussing each of the prospective entities and soliciting further information, throughout the Further Notice the Commission invites comment on the schedule for implementing 911 and E911 services which best meets the abilities, technically and financially suitable to the individual entities. In the past, the Commission has best been able to offer affected small and rural entities some relief from E911 by providing small entities with longer implementation periods than larger, more financially flexible entities that are better able to buy the equipment necessary to successful 911 and E911 implementation and to first attract the attention of equipment manufacturers.

33. In its discussion of MSS, the Further Notice recognizes that satellite carriers face unique technical difficulties in implementing both basic and enhanced 911 features. Thus, in paragraphs 22–26, the Further Notice examines the use of call centers in response to this problem. Paragraph 25 of the Further Notice notes that several commenters, thus far, have indicated that MSS callers tend to be located in remote areas where no PSAP may be available. The Further Notice suggests alternative solutions to this problem noting that, in the context of the 911 Act proceeding, stating that in areas where no PSAP has been designated, carriers still have an obligation not to block 911 calls and clarifying where such calls can be directed when no designated PSAP exists. There are a number of alternatives raised in the Further Notice in discussing the specifics of the calling center alternative. For example, should the Commission require carriers to relay automatically available location information to emergency call centers, and what reasonably achievable accuracy standards could be established for this location information?

34. Paragraphs 30–32 of the Further Notice recognize that high costs are associated with modifying satellite network infrastructures to accommodate E911 emergency call information and route it to appropriate PSAPs. These paragraphs discuss alternate solutions suggested in the comments to date, and request further comment aimed at reducing such costs. For example, some carriers argue that network modifications are necessary to forward ANI and ALI data, such as retrofitting switches throughout the network and making costly private trunking arrangements between earth stations and PSAPs. One commenter suggested that the retrofit costs could be reduced if (1) a single, central emergency call service could receive calls for the nation, or (2) each of the 50 states has a single point of emergency contact. Additionally, in paragraphs 35–41, the Further Notice considers alternatives for providing ALI. The Further Notice discusses a Coast Guard recommendation that the Commission require strict ALI accuracy standards for GMPCS. There are a number of issues and alternatives relating to the need for GPS that could conceivably impact small entities.

35. The Further Notice, in paragraphs 49–54, discusses international issues connected to MSS. The Further Notice seeks comment on a number of related alternatives, including whether resolution of international standards should in any way further delay adoption of a call center requirement or E911 rules for MSS, and on liability issues in connection with recognition of multiple emergency access codes. Finally, in regards to possible MSS emergency service requirements, the Further Notice, in paragraph 55, considers integration of the Ancillary Terrestrial Component.

36. In considering possible 911 and E911 regulation for telematics systems, the Further Notice, in paragraphs 64–71, questions whether a telematics call-center approach to 911 calls might be more appropriate that an approach based solely on 911 calls placed through a jointly packaged mobile voice service. Paragraphs 74–75 of the Further Notice weigh the benefits and costs involved in requiring telematics providers to deliver automatic crash notification data to PSAPs. Further, paragraph 80 of the Further Notice considers whether the Commission's legal authority might lead it to impose requirements directly on telematics providers or equipment manufacturers.

37. The Further Notice, in paragraphs 81–91, examines potential 911 and E911 requirements for multi-line telephone

systems. In that regard, the Commission considers whether to impose such regulations on a national basis or whether it is sufficient to rely on actions by state and local governments, associations, and private entities to ensure reliable coverage. The National Emergency Number Association, for example, has proposed model legislation what would allow states, through state legislation, to adopt many of the standards and protocol associated with delivering E911 services through multi-line systems. Paragraph 89 of the Further Notice looks at an E911 consensus group proposal regarding multi-line systems and delivery of call-back and location information to an appropriate PSAP. The Further Notice again questions whether it would be more appropriate to regulate equipment manufacturers in the multi-line context.

38. In considering possible basic and enhanced 911 requirements for resold cellular and personal communications services, the Further Notice, in paragraphs 92–97, weighs whether to impose a more express obligation on either the reseller or the underlying licensee to ensure compliance with the E911 rules.

F. Federal Rules that Overlap, Duplicate, or Conflict with the Proposed Rules

39. None.

Paperwork Reduction Analysis

40. The FNPRM contains proposed information collections. The Commission will open a period for public comment in the **Federal Register** at the time a final decision on which services will no longer be exempt from 911 and E911 requirements. These comments will be considered before the final rules become effective. The Commission will also seek OMB approval for whatever PRA burdens are adopted as final rules at the same time.

Ex Parte Presentations

41. This is a permit-but-disclose notice and comment rule making proceeding. Members of the public are advised that ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed under the Commission's Rules. *See* generally 47 CFR 1.1202, 1.1203, 1.1206(a).

Comment Dates

42. Pursuant to §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before February 3, 2003 and reply comments on or before February 28, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. 63 FR. 24121, 1998.

43. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rule making number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

44. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rule making number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rule making number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, Room TW-A306, 445 12th Street, SW., Washington, DC 20554.

45. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission. The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered diskette filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to: 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, the docket number of this proceeding, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleading, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554.

46. Alternative formats (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418–0260, TTY (202) 418–2555, or via e-mail to *mcontee@fcc.gov.* This Further Notice of Proposed Rulemaking can also be downloaded at *http://www.fcc.gov.*

Ordering Clauses

47. This Further Notice of Proposed Rulemaking is adopted, pursuant to Sections 4(i), 7(a), 303(b), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151,

154(i), 157(a), 303(b), 303(f), 303(g), and 303(r).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–1458 Filed 1–22–03; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 532, 538, and 552

[GSAR Case No. 2002–G505]

RIN 3090–AH76

General Services Administration Acquisition Regulation; Federal Supply Schedule Contracts—Acquisition of Information Technology by State and Local Governments Through Federal Supply Schedules

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Proposed rule with request for comments; notice of public meeting.

SUMMARY: The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to implement section 211 of the E-Government Act of 2002. Section 211 authorizes the Administrator of GSA to provide for the use by States or local governments of its federal supply schedule for ''automated data processing equipment (including firmware), software, supplies, support equipment, and services (as contained in Federal supply classification code group 70).'' To facilitate an open dialogue between the Government and interested parties on the implementation of section 211, GSA will hold a public meeting on the proposed GSAR rule on February 4, 2003.

DATES: *Comment Date:* Interested parties should submit comments to the Regulatory Secretariat at the address shown below on or before March 24, 2003, to be considered in the formulation of a final rule.

Public Meeting: A public meeting will be conducted at the address shown below starting at 10 a.m. to 12 p.m., local time, on February 4, 2003, to ensure an open dialogue between the government and interested parties on the proposed rule.

ADDRESSES: Submit written comments to—General Services Administration, Regulatory Secretariat (MVA), 1800 F Street, NW., Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to—*GSARcase.2002-G505@gsa.gov.*

Please submit comments only and cite 2002–G505 in all correspondence related to this case.

Public Meeting: The location of the public meeting will be at the GSA Auditorium, 1800 F Street, NW., Washington, DC 20405.

If you wish to attend the meeting and/or make presentations on the proposed rule, please contact and submit a copy of your presentation by January 28, 2003, to—General Services Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4033, Attn: Beverly Cromer, Washington, DC 20405. Telephone: (202) 208–6750.

Submit electronic materials via the Internet to—*meeting.2002-G505@gsa.gov.*

Please submit presentations only and cite Public Meeting 2002–G505 in all correspondence related to this public meeting. The submitted presentations will be the only record of the public meeting. If you intend to have your presentation considered as a public comment on the proposed rule, the presentation must be submitted separately as a public comment as instructed above.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4225, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Beverly Cromer, Procurement Analyst, at (202) 208–6750. Please cite GSAR case 2002–G505.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Supply Schedule Program, which is directed and managed by GSA, is designed to provide Federal agencies with a simplified process of acquiring commonly used commercial supplies and services at prices associated with volume buying. Ordering activities conduct streamlined competitions among a number of schedule contractors, issue orders directly with the selected contractor, and administer orders.

Section 211 of the E-Government Act of 2002 (Pub. L. 107–347) amends the Federal Property and Administrative Services Act to allow for ''cooperative purchasing,'' where the Administrator of GSA provides States and localities access to certain items offered through GSA's supply schedules. Specifically, section 211 amends 40 U.S.C. 502 by adding a new subsection ''(c)'' that allows, to the extent authorized by the Administrator, a State or local government to use ''Federal supply schedules of the General Services Administration for automated data processing equipment (ADPE)(including firmware), software, supplies, support equipment, and services (as contained in Federal supply classification code group 70).'' ''State or local government'' includes any State, local, regional, or tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education).

The proposed rule would establish a new GSAR subpart 538.70 and associated clauses to address cooperative purchasing from supply schedules by eligible non-federal organizations. Among other things, the rule would define the scope of cooperative purchasing, its usage, and applicable terms and conditions, including payment and the handling of disputes.

Limited scope. Because the law specifies that schedule access applies to offerings ''contained in Federal supply classification code group 70,'' the proposed GSAR changes would limit state and local purchases to the GSA's Schedule 70 contracts. The rule would not authorize access to ADPE available through GSA schedules other than Schedule 70. In addition, the rule would not apply, nor otherwise affect, supply schedules operated by the Department of Veterans Affairs under a delegation provided by GSA.

Voluntary use. The authority provided in this rule would be available for use on a voluntary (*i.e.*, non-mandatory) basis. In other words, businesses with Schedule 70 contracts would have the option of deciding whether they will accept orders placed by State or local government buyers. Existing Schedule 70 contracts would be modified by mutual agreement of the parties. Even after an existing contract has been modified, a schedule contractor would retain the right to decline orders by State or local government buyers on a case-by-case basis. Future schedule contractors would also be able to decline orders on a case-by-case basis. (Schedule contractors would be able to decline to accept any order, for any reason, within a 5-day period of receipt of the order.) Similarly, the rule would place no obligation on State and local government buyers. They would have full discretion to decide if they wish to make a supply schedule purchase, subject, however, to any limitations that may be established under local law and procedures.

Defined terms and conditions. Under proposed GSAR clause 552.238–79, which would be incorporated into covered schedule contracts of participating contractors, a new contract would be formed when the schedule contractor accepted an order from a State or locality. However, with certain exceptions provided in this rule, terms and conditions of the underlying schedule contract would be incorporated by reference into the new contract between the State or locality and the contractor. Buyers would not be permitted to place additional requirements on schedule contractors.

With respect to payment, proposed GSAR clause 552.232–81 would provide that the terms and conditions of a State's prompt payment law apply to orders placed by eligible non-federal ordering activities. If the ordering activity is not otherwise subject to a State prompt payment law, the activity would be covered by the Federal Prompt Payment Act, 31 U.S.C. 3901, *et seq.*, as implemented in the FAR (*see* subpart 32.9), in the same manner as Federal ordering activities.

The Federal government would not be liable for the performance or nonperformance of contracts established under the authority of this rule between schedule contractors and eligible non-federal entities. Disputes that could not be resolved by the parties to the new contract could be litigated in any State or Federal court with jurisdiction over the parties, using principles of Federal procurement law and the Uniform Commercial Code, as applicable and appropriate.

The prices of supplies and services available on schedule contracts include an administrative fee. The fee covers the administrative costs incurred by GSA to operate the Schedules program. The fee is periodically adjusted as necessary to recover the cost of operating the program.

Interested parties are encouraged to attend a public meeting that will be held on February 4, 2003, to discuss the contents of the proposed GSAR rule and other ideas regarding the implementation of section 211. GSA is developing a training plan to help acclimate parties with cooperative purchasing. Additional non-regulatory guidance will also be developed as necessary.

Finally, GSA intends to track the level of cooperative purchasing, including participation by small business schedule contractors. It will also monitor the effect of cooperative purchasing on Federal purchasing, including any changes in access for Federal customers and the impact on GSA's ability to negotiate favorable pricing and terms and conditions.

As required by section 211(c) of the E-Government Act, a report will be submitted to Congress by December 31, 2004, on the implementation and effects of cooperative purchasing.

The following statutes and Executive orders do not apply to this rulemaking: Unfunded Mandates Reform Act of 1995; Executive Order 13175, Consultation and Coordination with Indian Tribal Governments; and Executive Order 13132, Federalism.

B. Executive Order 12866

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and submitted to the Chief Counsel for Advocacy of the Small Business Administration. Copies of the IRFA are available from the Regulatory Secretariat. GSA will consider comments from small entities concerning the affected GSAR Parts in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 601, *et seq.* (GSAR 2002–G505), in correspondence. The IRFA indicates that the proposed rule will affect large and small entities including small businesses that are awarded Schedule 70 contracts under the GSA Federal supply schedule program; non-schedule contractors, including small businesses, contracting with State or local governments; and small governmental jurisdictions that will be eligible to place orders under Schedule 70 contracts. The analysis is as follows:

Initial Regulatory Flexibility Analysis GSAR Case 2002–G505

Federal Supply Schedule Contracts—Acquisition of Information Technology by State and Local Governments Through Federal Supply Schedules

Implementation of Section 211, Authorization for Acquisition of Information Technology by States and Local Governments through Federal Supply Schedules

This Initial Regulatory Flexibility Analysis has been prepared consistent with the criteria of 5 U.S.C. 604.

1. Description of the reasons why action by the agency is being considered.

To implement section 211, Authorization for Acquisition of Information Technology By States and Local Governments Through Federal Supply Schedules, of the E–Government Act of 2002 (Pub. L. 107–347). Section 211 amends section 502 of title 40, United States Code, to authorize the Administrator to provide for use by State or local governments of Federal Supply Schedules of the General Services Administration for automated data processing equipment (including firmware), software, supplies, support equipment, and services (as contained in Federal supply classification code group 70).

2. Succinct statement of the objectives of, and legal basis for, the proposed rule.

The proposed rule will implement section 211 of the E–Government Act of 2002 with the objective of opening the Federal supply schedule 70 for use by other governmental entities to enhance intergovernmental cooperation. The goal of the new rule is to make ''government'' (considering all levels) more efficient by reducing duplication of effort and utilizing volume purchasing techniques for the acquisition of IT products and services.

3. Description of, and where feasible, estimate of the number of small entities to which the proposed rule will apply.

The proposed rule will affect large and small entities including small businesses, that are awarded Schedule 70 contracts under the GSA Federal supply schedule program; non-schedule contractors, including small businesses, contracting with State or local governments; and small governmental jurisdictions that will be eligible to place orders under Schedule 70 contracts. Approximately sixty-eight percent (2,300) of GSA Schedule 70 contractors are small businesses. All of those small business Schedule 70 contractors will be allowed, at the schedule contractor's option, to accept orders from State and local governments. Obviously, the expanded authority to order from Schedule 70 contracts could increase the sales of small business schedule contractors. It is difficult to identify the number of non-schedule small businesses that currently sell directly to State and local governments. The ability of governmental entities to use Schedule 70 may affect the competitive marketplace in which those small businesses operate. State and local government agencies could realize lower prices on some products and services, less administrative burden and shortened procurement lead times. The rule does not affect or waive State or local government preference programs. Finally, small governmental jurisdictions will also be affected. The 50 states, 3139 counties, 19,365 incorporated municipalities, 30,386 minor subdivisions, 3,200 public housing authorities, 14,178 school districts, 1,625 public educational institutions of higher learning, and 550 Indian tribal governments would be among those affected if they chose to order from Schedule 70 contracts. Federal supply schedule contracts are negotiated as volume purchase agreements, with generally very favorable pricing. The ability of small governmental entities to order from Schedule 70 holds out the potential for significant cost savings for those organizations.

4. Description of projected reporting, recordkeeping, and other compliance

requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

The proposed rule makes changes in certain provisions or clauses in order to recognize the fact that authorized non-federal ordering activities may place orders under the contract. The Office of Management and Budget under the Paperwork Reduction Act have previously approved these clauses and the changes do not impact the information collection or recordkeeping requirements.

5. Identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlaps or conflict with the proposed rule.

The proposed rule when finalized does not duplicate, overlap, or conflict with any other Federal rules.

6. Description of any significant alternatives to the proposed rule that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the proposed rule on small entities.

There are no practical alternatives that will accomplish the objective of this rule.

D. Paperwork Reduction Act

The new provision at GSAR 552.232–82, Contractor's Remittance (Payment) Address, contains an information collection requirement that is subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The provision provides for the offeror to indicate the payment address to which checks should be mailed for payment of invoices and provides for the offeror to identify participating dealers and provide their addresses for receiving orders and payments on behalf of the contractor. This information is the same as is normally required in the commercial world and does not represent a Government-unique information collection. Therefore, the estimated burden for this clause under the Paperwork Reduction Act is zero. GSA has a blanket approval under control number 3090–0250 from OMB for information collections with a zero burden estimate.

The new clause at GSAR 552.232–83, Contractor's Billing Responsibilities, contains a recordkeeping requirement that is subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The clause provides for the contractor to require all dealers participating in the performance of the contract to agree to maintain certain records on sales made under the contract on behalf of the contractor. The records required are the same as those normally maintained by dealers in the commercial world and do not represent a Government-unique record keeping requirement. Therefore, the estimated burden for this clause under the Paperwork Reduction Act is zero. GSA has a blanket approval under control number 3090–0250 from OMB for information collections with a zero burden estimate.

The revised clause at GSAR 552.238–75, Price Reductions, contains an information collection requirement that is subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) that has previously been approved by the OMB under the Paperwork Reduction Act and assigned control number 3090–0235. The changes made to the clause by this rule do not have an impact on the information collection requirement, which was previously approved. Therefore, it has not been submitted to OMB for approval under the Act.

List of Subjects in 48 CFR Parts 532, 538, and 552

Government procurement.

Dated: January 16, 2003.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy.

Therefore, GSA proposes to amend 48 CFR parts 532, 538, and 552 as set forth below:

1. The authority citation for 48 CFR parts 532, 538, and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 532—CONTRACT FINANCING

2. Amend section 532.206 by redesignating the existing paragraph as paragraph (a) and by adding paragraphs (b), (c), and (d) to read as follows:

532.206 Solicitation provisions and contract clauses.

(a) * * *

(b) The contracting officer shall insert the clause at 552.232–81, Payments by Non-Federal Ordering Activities, in solicitations and schedule contracts for Schedule 70.

(c) The contracting officer shall insert the provision at 552.232–82, Contractor's Remittance (Payment) Address, in solicitations and schedule contracts for Schedule 70.

(d) The contracting officer shall insert the clause at 552.232–83, Contractor's Billing Responsibilities, in solicitations and schedule contracts for Schedule 70.

532.7003 [Amended]

3. Amend section 532.7003 in paragraph (a) by removing ''Payment by Governmentwide Commercial Purchase Card'' and adding ''Payment by Credit Card'' in its place.

PART 538—FEDERAL SUPPLY SCHEDULE CONTRACTING

538.272 [Amended]

4. Amend paragraph (a) of section 538.272 by removing ''Government'' each time it is used (twice) and adding ''eligible ordering activities'' in its place.

5. Add subpart 538.70 to read as follows:

Subpart 538.70—Cooperative Purchasing

Sec.
538.7000 Scope of subpart.
538.7001 Definitions.
538.7002 General.
538.7003 Policy.
538.7004 Solicitation provisions and contract clauses.

538.7000 Scope of subpart.

This subpart prescribes policies and procedures that implement statutory provisions authorizing non-federal organizations to use Schedule 70 contracts.

538.7001 Definitions.

Ordering activity (also called ''ordering agency'' and ''ordering office'') means an eligible ordering activity (see 552.238–78) authorized to place orders under Federal supply schedule contracts.

Schedule 70, as used in this subpart, means schedule 70 contracts, including products under Federal Supply Classification Code 70 of the Federal Supply Schedule program, services under Federal Supply Classification Code d3 (ADP & Telecommunication Services), and support items under both of these codes.

State and local government entities, as used in this subpart, means the States of the United States, counties, municipalities, cities, towns, townships, tribal governments, public authorities (including public or Indian housing agencies under the United States Housing Act of 1937), school districts, colleges and other institutions of higher education, council of governments (incorporated or not), regional or interstate government entities, or any agency or instrumentality of the preceding entities (including any local educational agency or institution of higher education), and including legislative and judicial departments. The term does not include contractors of, or grantees of, State or local governments.

(1) *Local educational agency* has the meaning given that term in section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713).

(2) *Institution of higher education* has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) *Tribal government* means—

(i) The governing body of any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(ii) Any Alaska Native regional or village corporation established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).

538.7002 General.

(a) 40 U.S.C. 501, (the Act) authorizes the Administrator of General Services to procure and supply personal property and nonpersonal services for the use of Executive agencies. Under 40 U.S.C. 502, the goods and services available to executive agencies are also available to mixed ownership Government corporations, establishments within the legislative or judicial branches of Government (excepting the Senate, House of Representatives, Architect of the Capitol, and any activities under the direction of the Architect of the Capitol), the District of Columbia, and Qualified Non-profit Agencies.

(b) Section 211 of the E-Government Act of 2002 amends 40 U.S.C. 502 to authorize the Administrator of General Services to provide for use of certain Federal supply schedules of the GSA by a State or local government, which includes any State, local, regional, or tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education).

(c) State and local governments are authorized to procure only from the information technology Federal supply schedule (Schedule 70) as follows:

(1) Information technology products that fall under the Federal supply classification code group 70 (ADP equipment (including firmware), software, supplies and support equipment);

(2) Services that fall under Federal Supply Classification Code d3 (ADP and telecommunication services); and

(3) Support items for these classifications listed in paragraphs (c)(1) and (c)(2) of this section.

538.7003 Policy.

Preparing solicitations when schedules are open to eligible non-federal entities. When opening Schedule 70 for use by eligible non-federal entities, the contracting officer must make minor modifications to certain Federal Acquisition Regulation provisions and clauses in order to make clear distinctions between the rights and responsibilities of the U.S. Government in its management and regulatory capacity pursuant to which it awards schedule contracts and fulfills associated Federal requirements versus the rights and responsibilities of eligible ordering activities placing orders to fulfill agency needs. Accordingly, the contracting officer is authorized to modify the following FAR provisions/clauses to delete ''Government'' or similar language referring to the U.S. Government and substitute ''ordering activity'' or similar language when preparing solicitations and contracts to be awarded under Schedule 70. When such changes are made, the word ''(VARIATION)'' shall be added at the end of the title of the provision or clause.

(a) 52.212–4, Contract Terms and Conditions—Commercial Items.

(b) 52.216–19, Order Limitations.

(c) 52.216–22, Indefinite Quantity.

(d) 52.229–1, State and Local Taxes.

(e) 52.232–7, Payments Under Time-and-Materials and Labor-Hour Contracts.

(f) 52.232–17, Interest.

(g) 52.232–34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration.

(h) 52.232–36, Payment by Third Party.

(i) 52.246–2, Inspection of Supplies (Fixed Price).

(j) 52.246–4, Inspection of Services-Fixed Price.

(k) 52.246–6, Inspection-Time-and-Material and Labor-Hour.

(l) 52.246–16, Responsibility for Supplies.

(m) 52.247–1, Commercial Bill of Lading Notations.

(n) 52.247–34, F.O.B. Destination.

(o) 52.247–38, F.O.B. Inland Carrier Point of Exportation.

(p) 52.247–53, Freight Classification Description.

538.7004 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the clause at 552.238–77, Definition (Federal Supply Schedules), in solicitations and schedule contracts for Schedule 70.

(b) The contracting officer shall insert the clause at 552.238–78, Eligible Ordering Activities, in solicitations and contracts for Schedule 70.

(c) The contracting officer shall insert the clause at 552.238–79, Use of Federal Supply Schedule Contracts by Certain Entities—Cooperative Purchasing, in solicitations and Schedule 70 contracts.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

552.211–75 [Amended]

6. Amend section 552.211–75 by revising the date of the clause to read ''(Date)'' and removing from the last sentence of the clause ''ordering agency'' and adding ''ordering activity'' in its place.

552.211–77 [Amended]

7. Amend section 552.211–77 by—

a. Revising the date of the clause to read ''(Date)'';

b. Removing from paragraph (a)(3) the word ''Government'' and adding the words ''Ordering activity'' in its place; and

c. Removing from the introductory text of paragraph (b) the word ''Government'' and adding the words ''ordering activity'' in its place.

552.216–72 [Amended]

8. Amend section 552.216–72 by—

a. Revising the date of the clause to read ''(Date)'';

b. Removing from the last sentence of paragraph (c) of the clause ''other agencies'' and adding ''other ordering activities'' in its place; and

c. Removing from the first sentence of paragraph (d) ''Federal agency'' and adding ''ordering activity'' in its place, and removing from the last sentence ''Federal agencies'' and adding ''Ordering activities'' in its place.

552.232–8 [Amended]

9. Amend section 552.232–8 by revising the date of the clause to read ''(Date)''; and removing paragraph (d) and redesignating paragraphs (e), (f), and (g) as (d), (e), and (f), respectively.

10. Amend section 552.232–77 by revising the section and clause headings and paragraphs (a) and (b); and in paragraphs (b) and (c) of Alternate I by removing ''Governmentwide commercial purchase card'' and adding ''credit card'' in its place. The revised text reads as follows:

552.232–77 Payment by Credit Card.

Payment by Credit Card (Date)

(a) *Definitions. Credit card* means any credit card used to pay for purchases, including the Governmentwide Commercial Purchase Card.

Governmentwide commercial purchase card means a uniquely numbered credit card issued by a Contractor under GSA's Governmentwide Contract for Fleet, Travel, and Purchase Card Services to named individual Government employees or entities to pay for official Government purchases.

Oral order means an order placed orally either in person or by telephone.

(b) At the option of the ordering activity and if agreeable to the Contractor, payments of * * * or less for oral or written orders may be made using the credit card.

* * * * *

11. Add sections 552.232–81, 552.232–82, and 552.232–83 to read as follows:

552.232–81 Payments by Non-Federal Ordering Activities.

As prescribed in 532.206(b), insert the following clause:

Payments by Non-Federal Ordering Activities (Date)

If eligible non-federal ordering activities are subject to a State prompt payment law, the terms and conditions of the applicable State law apply to the orders placed under this contract by such activities. If eligible nonufederal ordering activities are not subject to a State prompt payment law, the terms and conditions of the Federal Prompt Payment Act as reflected in Federal Acquisition Regulation clause 52.232–25, Prompt Payment, or 52.212–4, Contract Terms and Conditions—Commercial Items, apply to such activities in the same manner as to Federal ordering activities. (End of clause)

552.232–82 Contractor's Remittance (Payment) Address.

As prescribed in 532.206(c), insert the following provision:

Contractor's Remittance (Payment) Address (Date)

(a) The offeror shall indicate below the payment address to which checks should be mailed for payment of proper invoices submitted under a resultant contract.

Payment Address: _____

(b) Offeror shall furnish by attachment to this solicitation, the remittance (payment) addresses of all authorized participating dealers receiving orders and accepting payment in the name of the Contractor in care of the dealer, if different from their ordering address(es) specified elsewhere in this solicitation. If a dealer's ordering and remittance address differ, both must be furnished and identified as such.

(c) All offerors are cautioned that if the remittance (payment) address shown on an actual invoice differs from that shown in paragraph (b) of this provision or on the attachment, the remittance address (es) in paragraph (b) of this provision or attached will govern. Payment to any other address will require an administrative change to the contract.

Note: All delivery orders placed against a Federal Supply Schedule contract are to be paid by the individual ordering activity placing the order. Each delivery order will cite the appropriate ordering activity payment address, and proper invoices should be sent to that address. Proper invoices should be sent to GSA only for orders placed by GSA. Any other ordering activity's invoices sent to GSA will only delay your payment.

(End of provision)

552.232–83 Contractor's billing responsibilities.

As prescribed in 532.206(d), insert the following clause:

Contractor's Billing Responsibilities (Date)

(a) The Contractor is required to perform all billings made pursuant to this contract. However, if the Contractor has dealers that participate on the contract and the billing/payment process by the Contractor for sales made by the dealer is a significant administrative burden, the following alternative procedures may be used. Where dealers are allowed by the Contractor to bill ordering activities and accept payment in the Contractor's name, the Contractor agrees to obtain from all dealers participating in the performance of the contract a written agreement, which will require dealers to—

(1) Comply with the same terms and conditions regarding prices as the Contractor for sales made under the contract;

(2) Maintain a system of reporting sales under the contract to the manufacturer, which includes—

(i) The date of sale;

(ii) The ordering activity to which the sale was made;

(iii) The service or product/model sold;

(iv) The quantity of each service or product/model sold;

(v) The price at which it was sold, including discounts; and

(vi) All other significant sales data.

(3) Be subject to audit by the Government, with respect to sales made under the contract; and

(4) Place orders and accept payments in the name of the Contractor in care of the dealer.

(b) An agreement between a Contractor and its dealers pursuant to this procedure will not establish privity of contract between dealers and the Government. Price reductions made by a participating dealer on sales under this contract will result in an overall price reduction being assessed against the Contractor as provided for in the Price Reduction clause. (End of clause)

552.238–71 [Amended]

12. Amend section 552.238–71 by revising the date of the clause to read ''(Date)'' and by removing from paragraph (a) ''Federal Government'' and adding ''ordering activity'' in its place.

13. Amend section 552.238–75 by—

a. Revising the date of the clause;

b. Removing from paragraph (c)(2) ''Government'' and adding ''eligible ordering activities'' in its place;

c. Removing from the end of paragraph (d)(2) ''or''; and

d. Redesignating paragraph (d)(3) as (d)(4), and adding a new paragraph (d)(3) to read as follows:

552.238–75 Price Reductions.

* * * * *

Price Reductions (Date)

* * * * *

(d) * * *

(3) To eligible ordering activities under this contract; or

* * * * *

(End of clause)

14. Add sections 552.238–77 through 552.238–79 to read as follows:

552.238–77 Definition (Federal Supply Schedules).

As prescribed in 538.7004(a), insert the following clause:

Definition (Federal Supply Schedules) (Date)

Ordering activity (also called ''ordering agency'' and ''ordering office'') means an eligible ordering activity (see 552.238–78) authorized to place orders under Federal supply schedule contracts. (End of clause)

552.238–78 Eligible Ordering Activities.

As prescribed in 538.7004(b), insert the following clause:

Eligible Ordering Activities (Date)

(a) The following activities are authorized to place orders under this contract on an optional basis:

(1) Executive agencies (as defined in 48 CFR 2.1), including nonappropriated fund activities as prescribed in 41 CFR 101–26.000.

(2) Government contractors authorized in writing by a Federal agency pursuant to FAR 51.1.

(3) Mixed ownership Government corporations (as defined in the Government Corporation Control Act).

(4) Federal agencies, including establishments in the legislative or judicial branch of Government (except the Senate, the House of Representatives and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol).

(5) The District of Columbia.

(6) Tribal governments when authorized under 25 U.S.C. 450j(k).

(7) Qualified Nonprofit Agencies as authorized under 40 U.S.C. 502(b).

(8) Organizations, other than those identified in paragraph (b) of this clause, authorized by GSA pursuant to statute or regulation to use GSA as a source of supply.

(b) The following activities may place orders against Schedule 70 contracts to include Schedule 70 products (ADP equipment (including firmware), software, supplies and support equipment; Schedule 70 services and Schedule 70 support items), on an optional basis; *provided,* the Contractor accepts order(s) from such activities: State and local government which includes any state, local, regional or tribal government or any instrumentality thereof (including any local educational agency or institution of higher education). Tribal government means the governing body of any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as eligible for the special programs and services provided by the

United States to Indians because of their status as Indians, and any Alaska Native regional or village corporation established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*). (End of clause)

552.238–79 Use of Federal Supply Schedule Contracts by Certain Entities—Cooperative Purchasing.

As prescribed in 538.7004(c), insert the following clause:

Use of Federal Supply Schedule Contracts by Certain Entities—Cooperative Purchasing (Date)

(a) If an entity identified in paragraph (b) of the clause at 552.238–78, Eligible Ordering Activities, elects to place a delivery order under this contract, such order shall be subject to the following conditions:

(1) When the Contractor accepts an order from such an entity, a separate contract is formed which incorporates by reference all the terms and conditions of the Schedule contract except the Disputes clause, the patent indemnity clause, and the portion of the Commercial Item Contract Terms and Conditions that specifies ''Compliance with laws unique to Government contracts'' (which applies only to contracts with entities of the Executive branch of the U.S. Government). The parties to this new contract which incorporates the terms and conditions of the Schedule contract are the individual ordering activity and the Contractor. The U.S. Government shall not be liable for the performance or nonperformance of the new contract. Disputes which cannot be resolved by the parties to the new contract may be litigated in any State or Federal court with jurisdiction over the parties, using principles of Federal procurement law and the Uniform Commercial Code, as applicable.

(2) Where contract clauses refer to action by a Contracting Officer or a Contracting Officer of GSA that shall mean the individual responsible for placing the order for the ordering activity (*e.g.* FAR 52.212–4 at paragraph (f) and FSS clause I–FSS–249 B.)

(3) As a condition of using this contract, eligible ordering activities agree to abide by all terms and conditions of the Schedule contract, except for those deleted clauses or portions of clauses mentioned in paragraph (a)(1) of this clause. Ordering activities may not modify, delete or add to the terms and conditions of the Schedule contract. To the extent that orders placed by such ordering activities may include additional terms and conditions not found in the Schedule contract, those terms and conditions are null, void, and of no effect. The ordering activity and the Contractor expressly acknowledge that, in entering into an agreement for the ordering activity to purchase goods or services from the Contractor, neither the ordering activity nor the Contractor will look to, primarily or in any secondary capacity, or file any claim against the United States or any of its agencies with respect to any failure of performance by the other party.

(4) The ordering activity is responsible for all payments due the Contractor under the contract formed by acceptance of the ordering activity's order, without recourse to the agency of the U.S. Government, which awarded the Schedule contract.

(5) The Contractor is encouraged, but not obligated, to accept orders from such entities. The Contractor may, within 5 days of receipt of the order, decline to accept any order, for any reason. The Contractor shall fulfill orders placed by such entities, which are not declined within the 5-day period.

(6) The supplies or services purchased will be used for governmental purposes only and will not be resold for personal use. Disposal of property acquired will be in accordance with the established procedures of the ordering activity for the disposal of personal property.

(b) If the Schedule Contractor accepts an order from an entity identified in paragraph (b) of the clause at 552.238–78, Eligible Ordering Activities, the Contractor agrees to the following conditions:

(1) The ordering activity is responsible for all payments due the Contractor for the contract formed by acceptance of the order, without recourse to the agency of the U.S. Government which awarded the Schedule contract.

(2) The Contractor is encouraged, but not obligated, to accept orders from such entities. The Contractor may, within 5 days of receipt of the order, decline to accept any order, for any reason. The Contractor shall fulfill orders placed by such entities which are not declined within the 5-day period. (End of clause)

15. Amend section 552.246–73 by revising the date of the clause to read ''(Date)); removing from paragraph (b)(1) ''Government'' and adding ''ordering activity'' in its place; and removing from paragraph (b)(3) ''The Government'' and adding ''the ordering activity'' in its place.

[FR Doc. 03–1536 Filed 1–21–03; 10:37 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 030114012–3012–01; I.D. 121902F]

RIN 0648–AQ46

Fisheries of the Exclusive Economic Zone Off Alaska; Seasonal Area Closure to Trawl, Pot, and Hook-and-Line Fishing in Waters off Cape Sarichef

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

ACTION: Proposed rule.

SUMMARY: NMFS issues a proposed rule to seasonally prohibit directed fishing for groundfish by vessels using trawl, pot, or hook-and-line gear in waters located near Cape Sarichef in the Bering Sea subarea. This action is necessary to support NMFS research on the effect of fishing on the localized abundance of Pacific cod and to further the goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: Comments on the proposed rule must be received on or before February 7, 2003.

ADDRESSES: Comments should be sent to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Durall, or delivered to room 413–1 in the Federal Building at 709 W 9th St., Juneau, AK. Comments also may be faxed to 907–586–7557, marked Attn: Lori Durall. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action are available from the same address or by calling the Alaska Region, NMFS, at (907) 586–7228.

FOR FURTHER INFORMATION CONTACT: Melanie Brown at (907) 586–7228, or *melanie.brown@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS manages the domestic groundfish fisheries in the Bering Sea and Aleutian Islands Management Area (BSAI) under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the Magnuson-Stevens Fishery Conservation and Management Act (Maguson-Stevens Act). Regulations governing the groundfish fisheries of the BSAI appear at 50 CFR parts 600 and 679.

In October 2002, the Council adopted a proposed regulatory amendment to seasonally prohibit directed fishing for groundfish by vessels using trawl, pot, or hook-and-line gear in a portion of the waters off Cape Sarichef in the Bering Sea subarea. The purpose of this action is to support a NMFS research project investigating the effect of commercial fishing on Pacific cod abundance in localized areas. This study is an integral part of a NMFS comprehensive research program designed to evaluate effects of fishing on the foraging behavior of Steller sea lions. The western distinct population segment (DPS) of Steller sea lions is listed as an endangered species under the Endangered Species Act and is likely to be adversely affected by the Atka mackerel, pollock, and Pacific cod fisheries. Steller sea lion protection

measures are currently implemented to ensure the pollock, Atka mackerel, and Pacific cod fisheries are not likely to jeopardize the continued existence of or adversely modify or destroy critical habitat for the western DPS of Steller sea lions (68 FR 204, January 2, 2003).

Currently, the information available to evaluate alternative methods for protecting Steller sea lions and their critical habitat is very limited. Improved information could enhance the effectiveness and efficiency of existing protection measures. NMFS and other management agencies and organizations have undertaken numerous research initiatives to learn more about Steller sea lions and interactions with their environment, including fishery related effects potentially associated with the ongoing decline of the western DPS of Steller sea lions. One such activity is a controlled experiment by NMFS off Cape Sarichef to improve the information that can be used to assess further management actions to protect Steller sea lions and their critical habitat.

The goal of the study is to evaluate the effects of commercial trawl fishing on Pacific cod and to test a localized depletion hypothesis. This hypothesis states that the commercial fisheries may adversely affect the critical habitat of Steller sea lions by localized depletion of Steller sea lion prey. This study is designed as a comparison between sites within the area subject to intensive seasonal trawling and control sites within a nearby zone where trawling is prohibited. A complete description of the study is available in the EA/RIR/IRFA for this action (see **ADDRESSES**).

This proposed rule would impose a seasonal ban on all directed fishing for groundfish by vessels using trawl, pot, or hook-and-line gear in all waters located outside of the existing 10 nm no trawl area around Cape Sarichef and inside the boundary of the following coordinates joined in order by straight lines:

54°30′ N lat., 165°14′ W long.;
54°35′ N lat., 165°26′ W long.;
54°48′ N lat., 165°04′ W long.;
54°44′ N lat., 164°56′ W long.; and
54°30′ N lat., 165°14′ W long.

Cape Sarichef is located at coordinates 164°56.8′ W long. and 54°34.30′ N lat. See Figure 21 in the proposed regulatory language below.

This proposed fishing restriction would be in effect annually during the period of March 15 through March 31 in the years 2003 through 2006. The Council would review the experimental results after March 2003 to decide if any changes to the rule are needed in 2004 through 2006.

The trawl, pot, or hook-and-line fishing restriction is necessary to support NMFS research designed to identify and quantify the effects of commercial trawl fishing on the availability of Pacific cod to foraging Steller sea lions within a finite area. This research is intended to assess the effectiveness and efficiency of alternative management methods for ensuring that Pacific cod fisheries off Alaska neither jeopardize the continued existence of the western DPS of endangered Steller sea lions nor adversely modify its critical habitat.

The design of this study requires that experimental pot gear be deployed before and after the period of intense trawl fishing for Pacific cod. NMFS would deploy pot fishing gear in the restriction area during March 15 through March 31, a time period that historically includes the intense trawl fishery for Pacific cod. The trawl closure is necessary to prevent gear conflicts, including the risk of trawl gear disturbing the experimental pot gear. Trawl gear contacting pot gear would result in the displacement or loss of the pots. Pot loss or displacement would lead to economic losses to NMFS and would reduce the quality of the information gathered in the study. The commercial pot and hook-and-line gear closures are necessary to ensure that observed fishing effects are due to trawl fishing and not to additional fishing effort by hook-and-line and pot gear vessels moving into the area due to the trawl closure. A concern also exists that pot and hook-and-line gear vessels would enter areas historically fished by trawl gear. The pot and hook-and-line gear closures will prevent a redistribution of these fisheries and potential future conflicts with trawl gear.

Classification

NMFS has determined that the seasonal adjustments of fishery closures this proposed rule would implement are consistent with the national standards of the Magnuson-Stevens Act and other applicable laws.

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

This proposed action does not result in any changes in reporting or recordkeeping requirements.

Species listed under the Endangered Species Act (ESA) are present in the action area. According to an informal consultation completed on November 25, 2002, no listed species are likely to be adversely affected by this proposed action.

The analysis for this proposed action did not reveal any existing Federal rules that duplicate, overlap, or conflict with this action.

An IRFA to examine impacts of the preferred alternative on regulated small entities was conducted for this action in accordance with 5 U.S.C. 603(b). The proposed closure area is a small portion of Alaska State statistical reporting area 655430 and very small portions of areas 655410 and 645434. Observer data indicated that insignificant amounts of groundfish fishing occurs in areas 655410 and 645434, compared to 655430 and, therefore, catch data from these areas are not included in the analysis for this action. The entities regulated by this proposed action would be the catcher vessels and catcher-processors that have fished in the closure area in the second half of March, but that would not be able to do so during that period from 2003 through 2006. The estimated number of small entities that have fished in this area at that time ranges from 21 to 56 per year from 1998 through 2001. Statistical area 655430 includes waters other than those in the closure area; therefore, these estimates of entity numbers likely are high based on the data available for analysis.

The estimated annual average gross revenues for these small operations (from all their Alaskan fisheries) range between approximately $1.02 million and $1.63 million from 1998 through 2001. The estimated average gross revenues for these small entities in statistical area 655430 during the last 2 weeks in March, were about $10,000 in 1998, $18,000 in 1999, $19,000 in 2000, and $17,000 in 2001. As noted earlier, statistical area 655430 includes waters outside of the closure area; therefore, these estimates of average revenue probably exceed average revenues earned in the closure area.

The preferred alternative would prevent trawling, hook-and-line, and pot gear fishing in the closure area from March 15 to March 31 in the years 2003 through 2006. Fishing vessels that would otherwise have fished in the closure area during that period, would likely alter their fishing patterns so as to fish elsewhere. Many vessels may fish in waters to the north or northeast of the closure area. These alternative waters are further from the delivery ports and support services available at Akutan, Unalaska, and King Cove. These operational changes may impose somewhat higher costs on the vessels, and may lead to some loss of revenues. Moreover, the shift in fishing area may increase the bycatch rate on non-targeted species.

The impacts of the proposed action on these operations will be minor. The average gross revenues from statistical area 655430 are minor compared to overall small entity average gross revenues over the course of the year. They are also relatively minor compared to their total revenues from fishing activity in the last 2 weeks of March. These vessels likely would be able to alter their operations to continue their fishing activity elsewhere in the second half of March and, therefore, actual revenue loss should be much less than the average revenue from the closure area. Thus, the average gross revenues overstate the total adverse impact of the proposed rule on small entities.

An IRFA should include a description of any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that would minimize any significant economic impact of the proposed rule on small entities. Two alternatives that would have had less adverse impacts on small entities were considered. Alternative 1, the status quo alternative, would not have imposed restrictions on groundfish fishing in this area. This alternative was rejected because it created an unacceptably high risk of loss of experimental pot gear and consequent reduction in the statistical power of the experiment. This could have reduced the value of the experimental results for management purposes. Alternative 2 would have only restricted trawling in the closure area. This alternative was rejected because of concerns that, with no trawling in the closure area, hook-and-line and pot gear fishermen would enter in increasing numbers with consequent increased removals of Pacific cod that might be interpreted by the experiment as a trawl effect. Moreover, this alternative could have led to increased risk of gear conflicts between trawl and hook-and-line and pot gear following the end of the closure, as pot and hook-and-line gear vessels moved into the area closed to trawling but historically fished with trawl gear. Finally, the closure area under this alternative differed in its dimensions from the closure area in this proposed rule; these differences were introduced to reduce the adverse impact on small trawl entities under the proposed rule.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: January 16, 2003.

Rebecca Lent,

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

For the reasons discussed in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.22, paragraph (a)(11) is revised to read as follows:

§ 679.22 Closures.

* * * * *

(a)* * *

(11) *Cape Sarichef Research Restriction Area (effective through March 31, 2006)*—(i) *Description of Cape Sarichef Research Restriction Area.* The Cape Sarichef Research Restriction Area is all waters located outside of the 10 nm no trawl area around Cape Sarichef, as described in Tables 4 and 5 to this part, and inside the boundary of the following coordinates joined in order by straight lines (Figure 21 to part 679):

54°30′ N lat., 165°14′ W long.;

54°35′ N lat., 165°26′ W long.;

54°48′ N lat., 165°04′ W long.;

54°44′ N lat., 164°56′ W long.; and,

54°30′ N lat., 165°14′ W long.

(ii) *Closure.* The Cape Sarichef Research Restriction Area is closed from March 15 through March 31 to directed fishing for groundfish by vessels named on a Federal Fisheries Permit issued under § 679.4(b) and using trawl, pot, or hook-and-line gear.

* * * * *

3. Figure 21 to part 679 is added to read as follows:

BILLING CODE 3510–22–C

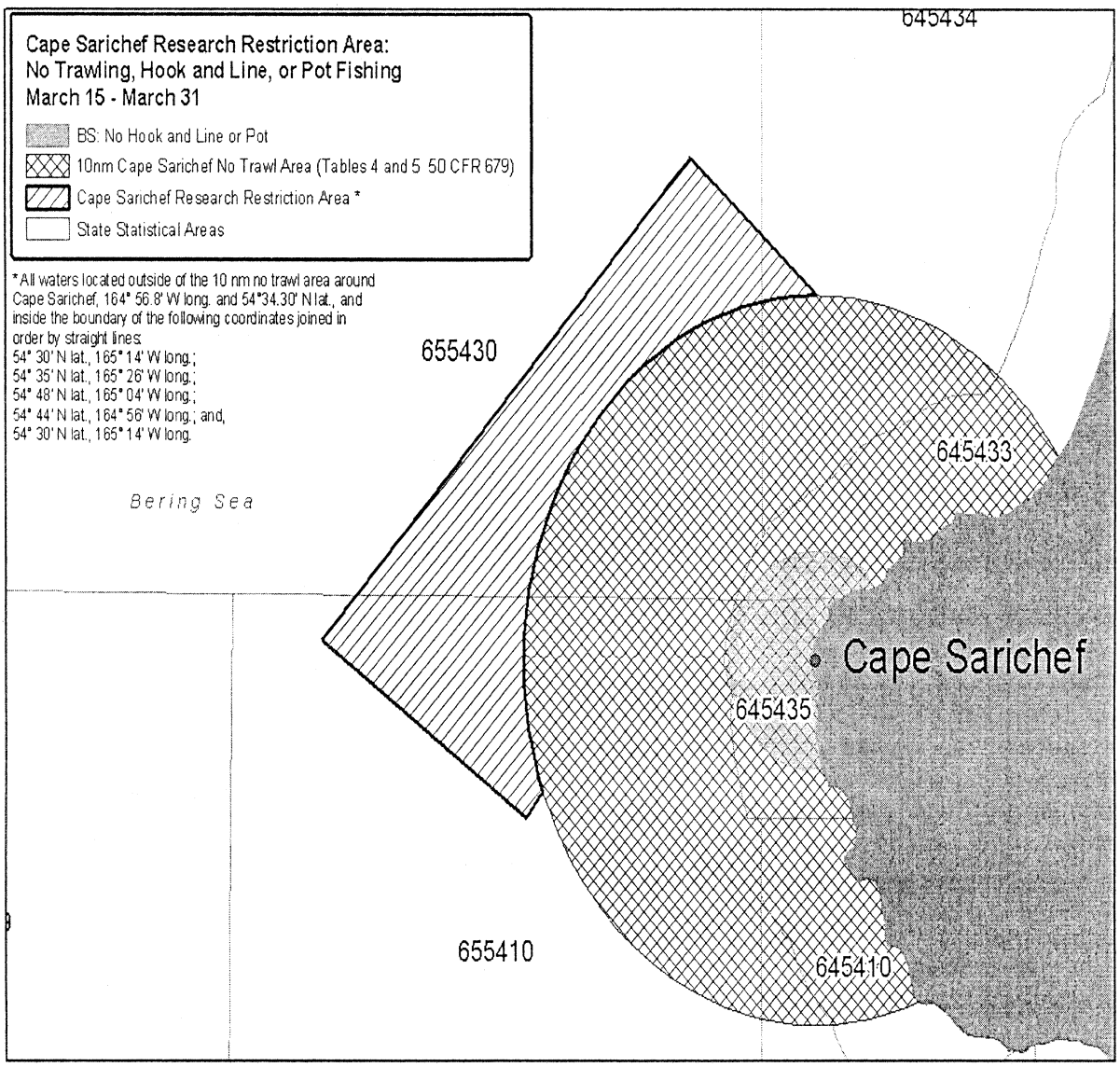

Figure 21 Cape Sarichef Research Restriction Area (Effective through March 31, 2006)

[FR Doc. 03–1466 Filed 1–22–03; 8:45 am]
BILLING CODE 3510–22–C

Notices

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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

Office of the Secretary

Black Hills National Forest Advisory Board

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of Intent; establishment of Advisory Board.

SUMMARY: The Department of Agriculture is proposing to establish the Black Hills National Forest Advisory Board to obtain advice and recommendations on a broad range of forest issues such as forest plan revisions or amendments, travel management, forest monitoring and evaluation, and site-specific projects having forestwide implications.

FOR FURTHER INFORMATION CONTACT: Geraldine Bower, Planning Specialist, Ecosystem Management Coordination, Forest Service, (202) 205–1022.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the U.S. Department of Agriculture, Black Hills National Forest, proposes to establish a Black Hills National Forest Advisory Board. The Board will provide advice and recommendations on a broad range of forest planning issues. The Board membership will consist of individuals representing commodity interests, amenity interests, and state and local government.

The establishment of this Board has been determined to be in the public interest in connection with the duties and responsibilities of the Black Hills National Forest. National forest management requires improved coordination among the interests and governmental entities responsible for land management decisions and the public that the agency serves. The Board will consist of 15 members that shall be representative of the following interests (this membership closely follows the membership outlined by the Secure Rural Schools and Community Self Determination Act for Resource Advisory Committees (16 U.S.C. 500, *et seq.*)):

1. Economic development interest
2. Developed outdoor recreation, off-highway vehicle users, or commercial recreation
3. Energy and mineral development interests
4. Commercial timber industry
5. Permittee (grazing or other land use within the Black Hills area)
6. Nationally recognized environmental organizations
7. Regionally or locally recognized environmental organizations
8. Dispersed recreational activities
9. Archeological or historical interests
10. Nationally or regionally recognized sportsmen's groups, such as anglers or hunters
11. South Dakota elected office
12. Wyoming elected office
13. County or local elected official in South Dakota or Wyoming
14. Tribal government elected or appointed official
15. State natural resource agency official from South Dakota or Wyoming

The chairing responsibility of the Board will be determined by the membership of the Board. The Forest Supervisor of the Black Hills National Forest will serve as the designated federal official under sections 10(e) and (f) of the Federal Advisory Committee Act (5 U.S.C. App.).

The Black Hills National Forest will provide further notices, as needed, of additional actions that will be taken to complete the formation of the Board.

Equal opportunity practices are followed in all appointments to advisory committees. To ensure that the recommendations of the Board have taken into account the needs of diverse groups served by the Black Hills National Forest, membership will include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Dated: November 25, 2002.

Lou Gallegos,

Assistant Secretary, Administration.

[FR Doc. 03–1429 Filed 1–22–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's (RBS) intention to request an extension for a currently approved information collection in support of the Rural Economic Development Loan and Grant Program (7 CFR 1703, subpart B).

DATES: Comments on this notice must be received by March 24, 2003, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Patricia Wing, Specialty Lenders Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3225, 1400 Independence Ave., SW., Washington, DC 20250–3225, Telephone (202) 720–9558.

SUPPLEMENTARY INFORMATION:

Title: Rural Economic Development Loan and Grant Program.

OMB Number: 0572–0012.

Expiration Date of Approval: June 30, 2003.

Type of Request: Extension of a currently approved information collection.

Abstract: RBS is part of the Rural Development mission area of the U.S. Department of Agriculture. RBS administers the Rural Economic Development Loan and Grant (REDLG) program, which provides zero interest loans and grants to Rural Utilities Service (RUS) borrowers for the purpose of promoting rural economic development and job creation projects. The loans and grants under the REDLG program may be provided to approximately 1,700 electric and telephone utilities across the country that have borrowed funds from RUS. Under this program, the RUS borrowers may receive the loan funds and pass them on to businesses or other organizations. The RUS borrower is responsible for the loan even if it does not receive payments from the ultimate recipient. Grants may be provided to

RUS borrowers to establish revolving loan funds.

RBS needs to receive the information contained in this collection of information to select the projects it believes will provide the most long-term economic benefit to rural areas. The selection process is competitive, and RBS has generally received more applications than it could fund. RBS also needs to make sure the funds are used for the intended purpose and, in the case of the loan, that the funds will be repaid. RBS must determine that loans made from revolving loan funds established with grants are used for eligible purposes.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.7 hours per response.

Respondents: RUS borrowers.

Estimated Number of Respondents: 120.

Estimated Number of Responses per Respondent: 13.3.

Estimated Number of Responses: 1,596.

Estimated Total Annual Burden on Respondents: 4,272.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, at (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (b) the accuracy of the RBS estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave., SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: January 13, 2003.

John Rosso,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 03–1455 Filed 1–22–03; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Maximum Dollar Amount on Awards Under the Rural Economic Development Loan and Grant Program for Fiscal Year 2003

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service hereby announces the maximum dollar amount on loan and grant awards under the Rural Economic Development Loan and Grant (REDLG) program for fiscal year (FY) 2003. The maximum dollar award on zero-interest loans for FY 2003 is $450,000. The maximum dollar award on grants for FY 2003 is $200,000. The maximum loan and grant awards stated in this notice are effective for loans and grants made during the fiscal year beginning October 1, 2002, and ending September 30, 2003. REDLG loans and grants are available to Rural Utilities Service electric and telephone utilities to assist in developing rural areas from an economic standpoint.

FOR FURTHER INFORMATION CONTACT: Patricia Wing, Loan Specialist, Rural Business-Cooperative Service, USDA, STOP 3225, Room 6866, 1400 Independence Avenue, SW., Washington, DC 20250–3225. Telephone: (202) 720–9558. FAX: (202) 720–2213.

SUPPLEMENTARY INFORMATION: The maximum loan and grant awards are determined in accordance with 7 CFR 1703.28. The maximum loan and grant awards are calculated as 3.0 percent of the projected program levels, rounded to the nearest $10,000; however, as specified in 7 CFR 1703.28(b), regardless of the projected total amount that will be available, the maximum size may not be lower than $200,000. The projected program level during FY 2003 for zero-interest loans is $14.966 million, and the projected program level for grants is $4 million. Applying the specified 3.0 percent to the program level for loans, rounded to the nearest $10,000, results in the maximum loan award of $450,000. Applying the specified 3.0 percent to the program level for grants results in an amount lower than $200,000. Therefore, the maximum grant award for FY 2003 will be $200,000. This notice will be amended should an appropriation in excess of projected levels be received.

Dated: January 13, 2003.

John Rosso,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 03–1454 Filed 1–22–03; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011603B]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling two public meetings of its (1) Monkfish Oversight Committee and (2) representatives of its Groundfish, Monkfish, Habitat, Sea Scallop, Skate, Whiting and Herring Advisory Panels in February, 2003 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between February 6–13, 2003. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Taunton, MA and South Portland, ME. See **SUPPLEMENTARY INFORMATION** for specific locations.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Thursday, February 6, 2003, at 9:30 a.m and Friday, February 7, 2003, at 8:30 a.m. Joint Advisory Panels Representatives Meeting.

Location: Holiday Inn Taunton, 700 Myles Standish Boulevard, Taunton, MA 02780; (508) 823–0430.

There will be a joint meeting of representatives from the Council's Groundfish, Monkfish, Habitat, Sea Scallop, Skate, Whiting and Herring Advisory Panels to comment on and develop alternatives to Essential Fish Habitat (EFH) area management currently proposed for the Scallop Amendment 10 Draft Supplemental Environmental Impact Statement.

Wednesday, February 12, 2003, at 10 a.m and Thursday, February 13, 2003 at 8:30 a.m. Monkfish Oversight Committee Meeting.

Location: Sheraton South Portland Hotel, 363 Maine Mall Road, South Portland, ME 04106; telephone: (207) 775–6161.

The Committee will discuss issues and options to be included in the Monkfish Amendment 2 Draft Environmental Impact Statement (DSEIS). Alternatives designed to achieve the approved goals and objectives include, but are not limited to: Permit qualification criteria for vessels fishing south of 38°N; management program for a deepwater directed fishery in the SFMA; separation of monkfish days-at-sea (DAS) from multispecies and sea scallop DAS programs, including counting of monkfish DAS as 24–hour days; measures to minimize impacts of the fishery on endangered sea turtles; measures to minimize bycatch in directed and non-directed fisheries; an exemption program for vessels fishing for monkfish outside of the EEZ (in the NAFO Regulated Area); alternative measures to minimize impacts of the fishery on EFH; measures to improve data collection and research on monkfish, including mechanisms for funding cooperative research programs; and, timing of the annual review and adjustment process. The Committee may develop and recommend other management alternatives not included in the list above.

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 listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: January 16, 2003.

Richard W. Surdi,

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

[FR Doc. 03–1465 Filed 1–22–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011003A]

NOAA Strategic Plan

AGENCY: Office of Strategic Planning (OSP), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to prepare a new NOAA Strategic Plan; request for comments.

SUMMARY: The National Oceanic and Atmospheric Administration(NOAA) is the United State's premier agency for environmental assessment and prediction and management providing broad benefitsto the Nation in the areas of economy, public safety and the environment. NOAA has recently begun the process of creating a new Strategic Plan for the agency responding to growing needs of the Nation for environmental information and management. One of the objectives of the new NOAA Strategic Plan is to directlyaddress the President's Management Agenda including principles for a citizen-centered, results oriented, and market-based government. To that end, NOAA has conducted a series of stakeholder and employee workshops in Seattle, New Orleans, Boston, Washington, DC, Boulder, Cleveland and Puerto Rico over the past several months and has used this input to lay the foundation for drafting the new NOAA Strategic Plan. Important themes that emerged from these meetings were ecosystem approaches to coastal and ocean resource management, climate variability and change and weather and water information needs as well as agency-wide cross-cutting priorities that will enhance NOAA's mission and provide leadership in the environmental sciences to better serve America in the 21st century. When finalized in early 2003, after public and internal review, the new NOAA Strategic Plan will become the blueprint for the direction of NOAA's core and future missions and will become institutionalized in every aspect of NOAA's resource planning and priority setting.

DATES: Public comments on this document must be received at the appropriate email address (see **ADDRESSES**) on or before 5 p.m., local time, February 14, 2003.

ADDRESSES: The NOAA Draft Strategic Plan is available at the OSP web site: *http://www.osp.noaa.gov*. Comments may be sent directly to the OSP email address *strategic.planning@noaa.gov* or visit the OSP website to submit comments. Comments will not be accepted if submitted via phone or fax.

FOR FURTHER INFORMATION CONTACT: James Burgess, Office of Strategic Planning (OSP), National Oceanic and Atmospheric Administration (NOAA), Herbert C. Hoover Building (HCHB), Room 6121, 14th and Constitution Ave., NW, Washington, DC 20230, phone: 202–482–5181, fax: 202–501–3024.

SUPPLEMENTARY INFORMATION:

Status

NOAA encourages all stakeholders and users to review the draft Strategic Plan. All comments must be submitted by individual participants (persons, businesses, organizations, etc.). Group consensus comments will not be accepted. The discussion draft of the NOAA Strategic Plan and directions for submitting comments have been posted on the website. Comments, questions and suggestions are welcomed from both scientific and stakeholder communities. All comments received will be reviewed and considered in the final drafting of NOAA's new Strategic Plan.

Dated: January 16, 2003.

James P. Burgess, III

Acting Director, Office of Strategic Planning, National Oceanic and Atmospheric Administration.

[FR Doc. 03–1464 Filed 1–22–03; 8:45 am]

BILLING CODE 3510–12–S

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange (CME): Proposed Amendments to the Weight Specifications, Speculative Position Limits, Delivery Locations, and Delivery Procedures for the Live Cattle Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of terms and conditions of proposed amendments to the CME's weight specifications, speculative position limits, delivery locations, and delivery

procedures for the live cattle futures contract.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has requested that the Commission approve the subject proposed amendments for the live cattle futures contract. The proposals were submitted pursuant to the provisions of Section 5c(c)(2) of the Commodity Exchange Act (Act) and Commission Regulation 40.4(a). Under the proposals, the Exchange will:

1. Increase the maximum live cattle average deliverable live weight by 25 pounds to 1,350 pounds, and increase the maximum individual animal live weight by 25 pounds to 1,400 pounds for cattle graded on a live weight basis;

2. Establish a ''scale down'' spot month speculative position limit of 450 contracts which applies during the period beginning with the close of business on the first business day following the first Friday of the contract month until the close of business on the business day preceding the last five business days of the contract month, after which period existing 300 contract limit will apply through the last day of trading;

3. Add delivery locations at Guymon and Texhoma, Oklahoma;

4. Establish penalties to be imposed at the sole discretion of the United States Department of Agriculture (USDA) grader, on any seller who has not properly presorted cattle for grading, and on any buyer who disrupts the delivery process, at a rate of $0.15 per pound of live cattle delivered;

5. Grant the CME the authority to prohibit futures delivery on ''auction days'' at delivery stockyards;

6. Provide for the establishment of an annual uniform grading and documentation fee per delivery unit;

7. Eliminate the requirement that live-graded delivery cattle stand without water during the time interval between 9 a.m. and the time of grading; and

8. Provide for the application of price differentials to the delivery of steer carcasses weighing between 950 and 1,000 pounds.

The Exchange intends to implement the amendments with respect to all newly listed futures contract months beginning with the December 2003 contract month.

The Director of the Division of Market Oversight (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the Exchange's proposed amendments for comment is in the public interest, and will assist the Commission in considering the views of interested persons.

DATES: Comments must be received on or before February 7, 2003.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to (202) 418–5521 or by electronic mail to *secretary@cftc.gov.* Reference should be made to ''CME Live Cattle Amendments.''

FOR FURTHER INFORMATION CONTACT: Please contact Martin G. Murray of the Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5276. Facsimile number: (202) 418–5527. Electronic mail: *mmurray@cftc.gov*

SUPPLEMENTARY INFORMATION:

Background

The CME's live cattle futures contract calls for delivery at par of 40,000 pounds of USDA estimated Yield Grade 3, 55% Choice, 45% Select quality grade live steers, averaging between 1,100 pounds and 1,300 pounds with an individual steer weighing more than 100 pounds above or below the average weight for the unit. No individual animal weighing less than 1,050 pounds or more than 1,350 pounds is deliverable.[1] The weighing and grading of cattle delivered on the futures contract is conducted by USDA graders. Delivery of live steers may be made at par at CME-approved livestock yards in Syracuse, Kansas; Tulia, Texas; Columbus, Nebraska; Dodge City, Kansas; Amarillo, Texas; Norfolk, Nebraska; North Platte, Nebraska; Ogallala, Nebraska; Pratt, Kansas; and Clovis, New Mexico.[2] The futures contract's rules currently specify an individual contract month speculative position limit of 3,300 contracts, and a spot month speculative position limit of 300 contracts that becomes effective at the close of business on the first business day following the first Friday of the contract month.[3]

1. Deliverable Live Weight Range

The Exchange proposes to increase the maximum average deliverable live weight to 1,350 pounds, and increase the maximum individual animal live weight to 1,400 pounds, for cattle graded on a live weight basis. In support of the proposal, the Exchange states, ''The increase is recommended due to an evident trend in increased weights for slaughter steers and will allow the contract to follow industry standards.''

2. Spot Month Speculative Position Limit

The Exchange proposes a ''scale-down'' spot month speculative position limit of 450 contracts which would apply during the period that begins with the close of business on the first business day following the first Friday of the contact month and continues until the close of business on the business day preceding the last five business days of the contract month. The contract's existing 300-contract limit would be applicable from the close of trading on the business day preceding the last five trading days throughout the last day of trading. Currently, there is a signed 300-contract limit applicable throughout the spot month beginning with the close of business on the first business day following the first Friday of the contract month through the last day of trading.

In support of the proposal, the Exchange notes that a ''scale down'' limit of 600 contract during the first part of the spot month and a 300-contract limit thereafter had been eliminated in favor of a single 300-contract spot month limit for the December 2002 through October 2003 contract months as a result of deliverable supply concerns. The Exchange believes that its subject proposals to widen the range of deliverable live weights, add two new delivery locations, and make other changes in the delivery process as discussed below, ''will create a more efficient delivery process, attract more people who are willing to deliver and increase the deliverable supply,'' thus justifying the establishment of the ''scale down'' limit of 450 contracts during the first part of the spot month.

3. Delivery Locations

The Exchange proposes to add Guymon and Texhoma, Oklahoma as delivery locations. In support of the proposal, the Exchange states that these locations would facilitate delivery from the Oklahoma panhandle. The Exchange further notes that Guymon had been a

[1] Beginning with deliveries on the June 2003 contract month, the average weight range will be between 1,100 pounds and 1,325 pounds, and no individual animal weighing greater than 1,375 pounds will be deliverable.

[2] At the buyer's option, cattle may be graded on a live basis at the delivery stockyard, or on a carcass basis at a CME-approved packing plant located within the originating stockyard's delivery region.

[3] The last trading day of an expiring contract month is the last business day of the contract month. Delivery notices may be issued beginning with the first business day following the first Friday of the contact month.

delivery location until October 2002, when it was removed due to the closing of the facility at this location. Recently, a new operator has re-opened the Guymon facility and has expressed an interest in being reinstated as a Live Cattle delivery point. In addition, the Texhoma Livestock Auction in Texhoma, Oklahoma has expressed an interest to the Exchange in becoming a Live Cattle delivery point.

4. Penalties for Delivery Obstructions

The Exchange proposes to penalize any seller who has not properly pre-sorted cattle for grading, at a rate of $.015 per pound of live cattle delivered per business day until proper delivery is made. In addition, the Exchange proposes to penalize any buyer who disrupts the delivery process, at a rate of $.015 per pound of live cattle delivered. These penalties to the seller and buyer would be imposed at the discretion of the USDA grader.

In support of the proposal, the Exchange indicates that the potential imposition of penalties will increase the ''throughput'' of the delivery system, by reducing the likelihood of impediments to the efficient operation of the grading process resulting from the actions of sellers and buyers. In this regard, the Exchange notes that failure on the part of a deliverer to do a proper job of sorting the cattle prior to delivery reduces the number of deliveries that can be completed in a given time period, and takes unfair advantage of those delivering shorts who properly sort their cattle. In addition, disruptive behavior by receiving longs and/or their agents interferes with the delivery process and reduces the number of deliveries that can be completed in a given time period. The Exchange further believes that the USDA grader is the logical party to determine whether, and to what extent, a delivering short or receiving long has disrupted the delivery process because it is the only unbiased, independent participant in the process, and USDA personnel are present at every delivery. The Exchange notes that the USDA has agreed to accept the responsibility for making these determinations.

5. Prohibit Deliveries at Certain Locations on Auction Days

The Exchange proposes to give itself the discretion to prohibit delivery at particular stockyards on those dates when an auction or other activity that may interfere with futures delivery is taking place at such stockyards. In support of the proposal, the Exchange notes that all of the contract's existing delivery locations hold feeder cattle auctions as their primary business, and that live cattle futures deliveries compete for many of the same resources, such as scales, pens, sorting alleys, etc. Although the Exchange historically has relied on the operators of the delivery stockyards to discourage deliveries on auction dates, is has proven difficult in practice for operators to do so. As a result, deliveries made on auction days have resulted in greater failure rates caused by auction-related operational bottlenecks that prevent cattle from being presented in a timely manner to the USDA grader.

The Exchange notes that it will determine in advance and ''black out'' auction days in its electronic tender system, making it impossible for a delivering short to submit a tender for delivery on those dates. Further, the Exchange notes that this prohibition on auction-day deliveries would apply generally to all locations, with the exception of Amarillo and Dodge City, ''where there are multiple scales and ample pens and sorting alleys.''

6. Uniform Grading and Documentation Fees

The Exchange is proposing to establish and set annually a uniform grading and documentation fee per delivery unit, which will be charged to sellers for each contract unit of cattle delivered on the futures contract. The fee will be applicable at all delivery locations. Currently, the Exchange passes through to the seller the actual costs billed to it by the USDA for grading services. The Exchange notes that USDA grading fees vary widely by location, ranging from $42 to $484, depending on the travel costs incurred by USDA to service a particular location. The Exchange believes that this variability has ''introduced a large degree of uncertainty into the delivery process for those planning to deliver at locations which require USDA travel.'' The Exchange further notes that the USDA is intending to propose a uniform flat fee of $100 per delivery unit for CME live graded deliveries.

7. Standing Without Water

The Exchange proposes to eliminate the requirement that live-graded delivery cattle stand without water during the time interval between 9 a.m. and the time of grading. Cattle will continue to be denied access to feed during this period.

8. Price Differentials for Heavy Carcasses

The Exchange proposes to provide for the application of price differentials to the delivery of steer carcasses weighing between 950 and 1,000 pounds based on price data from USDA's National Weekly Direct Slaughter Cattle—Premiums and Discounts report, which is used under existing rules for establishing a price differential for cattle weighing between 900 and 950 pounds. Currently, cattle weighing between 950 and 1,000 pounds are discounted at a rate equal to 20% of the final settlement price. In support of the proposal, the Exchange states that the proposal ''would allow more precise discounting of carcasses in this weight bracket.''

The Division is requesting comment on the proposals. Copies of the Exchange's proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission. Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Copies of the proposed amendments can also be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the CME in support of the request for approval may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations there under (17 CFR Part 145 (2002)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments pertaining to the proposed amendments or with respect to other materials submitted by the CME should send such comments to Jean A. Webb. Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581 by the specified date.

Dated: Issued in Washington, DC on January 17, 2003.

Michael Gorham,

Director.

[FR Doc. 03–1534 Filed 1–22–03; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by February 24, 2003.

Title, Form, Number, and OMB Number: Defense Federal Acquisition Supplement (DFARS) Part 245, Government Property, related clauses in DFARS 252 and related forms in DFARS 253; DD Forms 1149, 1149C, 1342, 1419, 1637, 1639, 1640, and 1662; OMB Number 0704–0246.

Type of Request: Extension.

Number of Respondents: 14,862.

Responses Per Respondent: 3.

Annual Responses: 42,497.

Average Burden Per Response: 70 minutes (average).

Annual Burden Hours: 50,170.

Needs and Uses: This request concerns information collection requirements related to providing Government property to contractors; contractors' use and management of Government property; and reporting, redistribution, disposing of contractor inventory.

Affected Public: Business or other-for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jacqueline Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10235, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: January 16, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–1438 Filed 1–22–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

AGENCY: Office of the Secretary, DOD.

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by February 24, 2003.

Title, Form Number, and OMB Number: Defense Federal Acquisition Supplement (DFARS) Part 242, Contact Administration, related clauses in DFARS 252 and related forms in DFARS 253; DD Form 1659; OMB Number 0704–0250.

Type of Request: Extension.

Number of Respondents: 33,000.

Responses Per Respondent: 2.

Annual Responses: 86,215.

Average Burden Per Response: 150 minutes (average).

Annual Burden Hours: 217,645.

Needs and Uses: This request concerns information collection requirements related to production progress reviews, Government bills of lading, contractor insurance/pension reviews, and the material management and accounting system reviews.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jacqueline Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10235, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: January 16, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–1439 Filed 1–22–03; 8:45 am]

BILLING CODE 5001–008–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DoD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices, DoD.

ACTION: Notice.

SUMMARY: Working Group A (Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting. The announcement of the meeting is being published in less than the 15 day requirement by law because of scheduling conflicts.

DATES: The meeting will be held at 0900, Tuesday, January 21, 2003.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500 Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: David Cox, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition, Technology and Logistics to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency (ARPA) and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Work Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. sec. 10(d) it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: January 16, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–1440 Filed 1–22–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Change in Meeting Date of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices, DOD.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DOD Advisory Group on Electron Devices (AGED) announces a change to a closed session meeting. The announcement of the meeting is being published in less than the 15-day requirement by law because of scheduling conflict.

DATES: The meeting will be held at 0900, Thursday, January 23, 2003.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition, Technology and Logistics to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. Sec. 10(d)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: January 16, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–1441 Filed 1–22–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices, DOD.

ACTION: Notice.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting. The announcement of the meeting is being published in less than the 15 day requirement by law because of scheduling conflicts.

DATES: The meeting will be held at 0900, Wednesday, January 22, 2003.

ADDRESSES: The meeting will be held at the Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Carr, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition, Technology and Logistics to the director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments proposed to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. Sec. 10(d)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: January 16, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Officer, Department of Defense.

[FR Doc. 03–1442 Filed 1–22–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

DATE(S): March 12, 2003 from 9 a.m. to 5:45 p.m. and March 13, 2003 from 8:30 a.m. to 11:30 a.m.

ADDRESS: Holiday Inn Arlington at Ballston, 4610 North Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Ms. Veronica Rice, SERDP Program Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696–2119.

SUPPLEMENTARY INFORMATION:

Matters To Be Considered

Research and Development proposals and continuing projects requesting Strategic Environmental Research and Development Program funds in excess of $1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

Dated: January 16, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–1444 Filed 1–22–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Threat Reduction Advisory Committee

AGENCY: Department of Defense, Office of the Under Secretary of Defense (Acquisition, Technology and Logistics)

ACTION: Notice of advisory committee meeting.

SUMMARY: The Threat Reduction Advisory Committee will meet in closed session on Thursday, March 20, 2003, at the Institute for Defense Analyses (IDA), and on Friday, March 21, 2003 in the Pentagon, Washington, DC.

The mission of the Committee is to advice the Under Secretary of Defense (Acquisition, Technology and Logistics) on technology security, Counterproliferation, chemical and biological defense, sustainment of the nuclear weapons stockpile, and other matters related to the Defense Threat Reduction Agency's mission.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. Appendix II), it has been determined that this Committee meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly the meeting will be closed to the public.

DATES: Thursday, March 20, 2003, (8 a.m. to 4 p.m.) and Friday, March 21, 2003, (8 a.m. to 9:20 a.m.)

ADDRESSES: Institute for Defense Analyses, Board Room, 4850 Mark Center Drive, Alexandria, Virginia and the USD (AT&L) Conference Room (3D1019), the Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Colonel Don Minner, Defense Threat Reduction Agency/AST, 8725 John J. Kingman Road MS 6201, Fort Belvoir, VA 22060–6201. Phone: (703) 767–5718.

Dated: Janaury 16, 2003.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–1443 Filed 1–22–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Air Force HQ USAF Scientific Advisory Board Meeting

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the forthcoming meeting of the 2003 S&T Review and the leadership of the Air Force Research Laboratory. The purpose of the meeting is to allow the SAB leadership to advise the commander of the AFRL on the outcome of the 2003 Review. Because classified and contractor-proprietary information will be discussed, this meeting will be closed to the public.

DATES: January 27, 2003.

ADDRESSES: Wright-Patterson AFB, Dayton, OH.

FOR FURTHER INFORMATION CONTACT: Maj. John Pernot, Air Force Scientific Advisory Board Secretariat, 1180 Air Force Pentagon, Rm 5D982, Washington, DC 20330–1180, (703) 697–4811.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 03–1571 Filed 1–22–03; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF EDUCATION

Secretary of Education's Commission on Opportunity in Athletics; Meeting

AGENCY: Secretary of Education's Commission on Opportunity in Athletics, Department of Education.

ACTION: Notice of open meeting; correction.

SUMMARY: This notice corrects the notice of meeting of the Secretary of Education's Commission on Opportunity in Athletics (the Commission) published on January 8, 2003 (68 FR 1051). The location of the meeting has been changed. All other information in the January 8 notice remains the same.

Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES: January 29–30, 2003.

Location: The new location of the meeting is the Hotel Washington, 515 15th Street, NW., Washington, DC 20004.

Times: January 29: 9 a.m.–12:30 p.m., 2 p.m.–5 p.m. January 30: 9 a.m.–1 p.m.

FOR FURTHER INFORMATION CONTACT:

1. *Internet.* We encourage you to send your questions through the Internet to the following address: *OpportunityinAthletics@ed.gov.*

2. *Mail.* You may submit your comments to The Secretary of Education's Commission on Opportunity in Athletics, 400 Maryland Avenue, SW., ROB–3 Room 3060, Washington, DC 20202. Due to delays in mail delivery caused by heightened security, please allow adequate time for the mail to be received.

3. *Facsimile.* You may submit comments by facsimile at (202) 260–4560.

View the Commission's Web site at: *http://www.ed.gov/inits/commissionsboards/athletics.* The Commission office number is 202–708–7417.

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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 published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Dated: January 17, 2003.

Rod Paige,

Secretary of Education.

[FR Doc. 03–1533 Filed 1–22–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–136–001]

Alliance Pipeline L.P.; Notice of Compliance Filing

January 16, 2003.

Take notice that on January 10, 2003, Alliance Pipeline L.P. (Alliance) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, proposed to become effective January 1, 2003:

Substitute First Revised Sheet No. 10
Substitute First Revised Sheet No. 257
Substitute First Revised Sheet No. 258

Alliance states that the filing is being made in compliance with the Commission's order issued on December 31, 2002, in the above referenced proceeding.

Alliance states that copies of its filing have been mailed to all customers, state commissions, and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. 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 proceedings. 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 ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: January 23, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1512 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP01–76–003 and CP01–77–003]

Cove Point LNG Limited Partnership; Notice of Compliance Filing

January 16, 2003.

Take notice that on January 13, 2003, Cove Point LNG Limited Partnership (Cove Point) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets listed on Appendix A to the filing.

Cove Point states that its filing moves into effect, with certain appropriate adjustments, the pro forma tariff sheets approved by the Commission when it granted certificate authorizations to Cove Point to construct and operate new facilities and to modify and reactivate existing facilities at its liquefied natural gas (LNG) terminal in Calvert County, Maryland. Cove Point states that it anticipates that it will place its LNG import facilities in-service, and be ready to provide LNG tanker discharging service, on May 1, 2003. Cove Point proposes that the following tariff sheets become effective February 1, 2003:

Original Sheet No. 18C.01
Original Sheet No. 18D
Original Sheet No. 18F

Cove Point explains that these tariff sheets include advance notice requirements that must be in place by February 1, 2003, to allow service to begin on May 1, 2003. Cove Point proposes that the remainder of the filed tariff sheets included in Appendix A to the filing become effective on May 1, 2003.

Cove Point states that copies of the filing as been served on its customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed on or before January 23, 2003. 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 proceedings. 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 ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *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. 03–1494 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–36–001]

Dauphin Island Gathering Partners; Notice of Compliance Filing

January 16, 2003.

Take notice that on January 13, 2003, Dauphin Island Gathering Partners (Dauphin Island) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Twelfth Revised Sheet No. 9 and Ninth Revised Sheet No. 10, to become effective January 1, 2003.

Dauphin Island states that these tariff sheets reflect changes to Maximum Daily Quantities (MDQ's) and the termination of three contracts.

Dauphin Island states that copies of the filing are being served contemporaneously on all participants listed on the service list in this proceeding and on all persons who are required by the Commission's regulations to be served with the application initiating these proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. 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 proceedings. 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 ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: January 27, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1513 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–415–006]

East Tennessee Natural Gas Company; Notice of Compliance Filing

January 16, 2003.

Take notice that on December 31, 2002, East Tennessee Natural gas Company (East Tennessee) tendered for filing its service agreements between East Tennessee and NUI Energy Brokers, Inc., Duke Energy Murray, LLC, and Carolina Power & Light company. On November 20, 2002, the Commission issued to East Tennessee an ''Order Denying Rehearing, Authorizing Abandonment, and Issuing Certificate'' in the captioned proceeding. In compliance with ordering paragraph (G) of the November 20 Order, East Tennessee filed said service agreements with the Commission.

East Tennessee states that pursuant to 18 CFR 385.2010, East Tennessee is contemporaneously serving copies of its submittal to persons whose names appear on the official list for this proceeding.

Any person desiring to intervene and/or to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 and 385.211 of the Commission's rules and regulations. 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. 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 ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(l)(iii) and the instructions on the Commission's Web site under the ''e-Filings'' link.

Protest and Intervention Date: January 27, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1493 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7115–033]

Homestead Energy Resources, LLC; Notice Dismissing Request for Rehearing as Moot

January 16, 2003.

On October 8, 2002, the Director, Division of Hydropower Administration and Compliance (Director), issued an order denying a requested extension of time and issuing notice of probable termination of license for the George W. Andrews Project No. 7115, located on the Chattahoochee River in Houston County, Alabama, and Early County, Georgia.[1]

[1] 101 FERC ¶ 62,022 (2002).

On November 6, 2002, Homestead Energy Resources, LLC, filed a timely request for rehearing of the Director's order. On December 6, 2002, the Director rescinded the October 8, 2002, order. Therefore, the request for rehearing is moot and dismissed.

This notice constitutes final agency action. Requests for rehearing by the Commission of this dismissal must be filed within 30 days of the date of issuance of this notice, pursuant to 18 CFR 385.713.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1500 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–047]

Northern Natural Gas Company; Notice of Compliance Filing

January 16, 2003.

Take notice that on January 14, 2003, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective on February 14, 2003:

28 Revised Sheet No. 66
Sheet No. 66A

Northern states that the reason for this filing is to delete certain negotiated rate transactions that have terminated.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. 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 proceedings. 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 ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: January 27, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1514 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–36–000]

Questar Pipeline Company; Notice of Request Under Blanket Authorization

January 16, 2003.

Take notice that on December 31, 2002, Questar Pipeline Company (Questar), 180 East 100 South, Salt Lake City, Utah 84145, filed in Docket No. CP03–36–000 a request pursuant to sections 157.205 and 157.208 of the Federal Energy Regulatory Commission's regulations (18 CFR 157.205 and 157.208) under the Natural Gas Act (NGA) for authorization to construct and operate a 15.81-mile, 24-inch diameter interconnect, known as Tie Line (TL) 112, between the interstate pipeline systems of Questar and Overthrust Pipeline Company (Overthrust), under Questar's blanket certificate issued in Docket No. CP82–491–000, pursuant to section 7 of the NGA, all as more fully set forth in the application which is on file with the Commission and open to public inspection. 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 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.

Questar states that the proposed TL 112 will extend from an interconnection with Overthrust's 36-inch diameter main line at Uinta County, Wyoming to Questar's Main Line (ML) 48 in Rich County, Utah. Questar states that at the eastern terminus of the interconnect, located in Whitney Canyon, Uinta County, Wyoming, Questar proposes to install a custody-transfer measurement station. Questar further states that at the

western terminus of the interconnect in Rich County, Utah, Questar proposes to install various valves, piping and pipeline cleaning facilities. In addition, Questar states that TL 112 will be tested to a maximum allowable operating pressure of 1,050 psig and will be constructed at a total estimated cost of $14,600,000.

Questar explains that the proposed project is in the public interest because it is required to support growing residential, commercial and industrial demand for natural gas along Questar's principal end-use market in northern Utah served by its local distribution company affiliate, Questar Gas Company (QGC). Questar states that since TL 112 will be constructed for the purpose of receiving additional gas supplies into Questar's existing system for ultimate delivery to the Salt Lake City metropolitan area and to interconnect the systems of two open-access transporters, the proposed interconnect will be installed as an eligible facility as defined in section 157.202 of the Commission's regulations. Questar further states that QGC has entered into a 10-year firm contract for the transportation of up to 52,000 dekatherms per day from three receipt points on Questar's northern system to the Wasatch Front via TL 112.

Any questions concerning this request may be directed to Lenard G. Wright, Director of Federal Regulation, Questar Pipeline Company, 180 East 100 South, Salt Lake City, Utah 84111 at (801) 324–2459 or lenardw@questar.com.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, 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 regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Protests and interventions may be filed electronically via the Internet in lieu of paper, *see* 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: March 3, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1496 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–057–004]

SCG Pipeline, Inc.; Notice of Compliance Filing

January 16, 2003.

Take notice that on November 19, 2002, SCG Pipeline, Inc. (SCG) tendered for filing its *pro forma* FERC Gas Tariff, Volume No. 1. SCG states that the filing is being made in compliance with the Commission's order entitled ''Preliminary Determination on Non-Environmental Issues'' issued on June 26, 2002, that preliminarily approved the issuance of the certificate authority to SCG and addressed tariff and rate aspects of SCG's application. Furthermore, on September 20, 2002, the Commission issued an ''Order Issuing Certificates, Approving Abandonment and Denying Rehearing''. Ordering paragraph G of the June 26 order and ordering paragraph D of the September 20 order required SCG to file, within 60 days after the issuance of the September 20 order, rates and *pro forma* tariff sheets consistent with the modifications in the June 26 Order and the effective NAESB and Order No. 637 standards. This filing consists of the tariff sheets necessary to make the clarifications required by the Commission in its June 26 Order.

SCG states that a copy of the filing has been mailed to each person designated on the official service list compiled by the Secretary of the Commission in this proceeding, as well as to all customers and interested state commissions.

Any person desiring to intervene and/or to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 and 385.211 of the Commission's rules and regulations. 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. 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 ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(l)(iii) and the instructions on the Commission's Web site under the ''e-Filings'' link.

Comment Date: January 27, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1495 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–515–001]

Texas Gas Transmission Corporation; Notice of Compliance Filing

January 16, 2003.

Take notice that on November 20, 2002, Texas Gas Transmission Corporation (Texas Gas) tendered for filing detailed responses to matters discussed in Ordering Paragraph B of the Commission's October 31, 2002, order. The order accepted and suspended a tariff sheet filed by Texas Gas on August 30, 2002, which reflected its annual adjustment to be fuel retention percentages subject to refund and conditions and further review.

Texas Gas states that copies of its filing are being mailed to all parties on the service list in this docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in acordance with section 154.210 of the Commission's regulations. 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 proceedings. 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 ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the

Internet in lieu of paper. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: January 23, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1511 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–132–006]

Viking Gas Transmission Company; Notice of Refund Report

January 16, 2003.

Take notice that on December 13, 2002, Viking Gas Transmission Company (Viking) tendered for filing a report of refunds in accordance with the Offer of Settlement and Stipulation and Agreement filed by Viking on September 13, 2002, in the above-referenced docket and approved by the Commission by order issued November 8, 2002.

Viking states that copies of its filing have been served on all parties designated on the official service list in this proceeding, and on all Viking's jurisdictional customers and to affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. 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 proceedings. 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 ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: January 23, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1510 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–37–000]

Williston Basin Interstate Pipeline Company; Notice of Application

January 16, 2003.

Take notice that on January 6, 2003, Williston Basin Interstate Pipeline Company (Williston Basin), P.O. Box 5601, Bismarck, North Dakota 58506–5601, filed in Docket No. CP03–37–000, an 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), for permission and approval to abandon compression and appurtenant facilities in Hot Springs County, Wyoming, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williston Basin proposes to abandon approximately a 369 horsepower compressor unit and appurtenant facilities at the Thermopolis Compressor Station. It is stated that Williston Basin no longer needs the facilities at this location to fulfill its service obligations, because gas needed to serve the town of Thermopolis, Wyoming, does not move through the compressor unit. It is stated that the facilities would be abandoned in place, with the possibility that they could be removed at a later date if needed at another location. Williston Basin estimates that the cost of abandoning the facilities would be $1,503.

Any questions concerning this application may be directed to Keith A. Tigelaar, Director of Regulatory Affairs, at (701) 530–1560.

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, please contact FERC Online Support at FERC OnlineSupport@ferc.gov or call toll-free at (866)206–3676, or, for TTY, contact (202)502–8659. 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 intervenors to file electronically.

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 on or before the comment date with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made 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.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed

documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

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 a certificate will be issued.

Comment Date: February 5, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1497 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted For Filing and Soliciting Motions To Intervene and Protest

January 16, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 1413–032.

c. *Date Filed:* October 30, 2002.

d. *Applicant:* Fall River Rural Electric Cooperative, Inc.

e. *Name of Project:* Buffalo River (previously Pond's Lodge) Hydroelectric Project.

f. *Location:* On the Buffalo River near its confluence with the Henry's Fork River, in Fremont, Idaho. The project occupies 9.8 acres of land within the Targhee National Forest.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Fall River Rural Electric Cooperative, Inc., 1150 North 3400 East, Ashton, Idaho 83420, Tel. # (208) 652–7431, and/or Brent L. Smith, President, Northwest Power Services, Inc, P.O. Box 535, Rigby, Idaho 83442, Tel. # (208) 745–0834.

i. *FERC Contact:* Gaylord Hoisington, (202) 502–8163, *gaylord.hoisington@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 k below.

k. Deadline for filing motions to intervene and protests and requests for cooperating agency status: 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 and requests for cooperating agency status 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.

l. This application has been accepted, but is not ready for environmental analysis at this time.

m. The existing Buffalo River Project consists of: (1) A 142-foot-long by 12-foot-high timber-faced rock-filled diversion dam; (2) a 40-foot-long by 3-foot-high concrete slab spillway with stop logs; (3) a fish passage structure; (4) a concrete intake structure with a 5-foot steel slide gate; (5) a trash rack; (6) a 52-foot-long by 5-foot-diameter concrete encased steel penstock; (7) a 34-foot-long by 22-foot-high masonry block powerhouse containing a 250-kilowatt Bouvier Kaplan inclined shaft turbine; and (8) other appurtenant facilities. The applicant estimates that the total average annual generation would be 1,679 megawatthours.

n. 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 ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

o. 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.

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. 03–1498 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

January 16, 2003.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type*: Amendment of license to add transmission line as a project feature, and revise project boundary.

b. *Project No*: 2816–020.

c. *Date Filed:* December 20, 2002.

d. *Applicant:* Mr. Gleb Ginka trustee for Vermont Electric Generation & Transmission Cooperative, Inc. (Tranferor), and North Hartland, LLC (Transferee).

e. *Name of Project:* North Hartland Project.

f. *Location:* The project is located on the Ottaquechee River at the U.S. Army

Corps of Engineers' North Hartland Dam in Windsor County, Vermont.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791 (a) 825(r) and 799 and 801.

h. *Applicant Contact:* Mr. Gleb Ginka, 81 Glinka Road, Cabot, VT 05647–007. Tel: (802) 562–2828, or Mr. Robert L. Carey, North Hartland, LLC, Great Falls, VA 22066. Tel: (703) 561–0611.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Vedula Y. Sarma at (202) 502–6190, or e-mail address: *vedula.sarma@ferc.gov*.

j. *Deadline for filing comments and or motions*: February 18, 2003.

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–2816–020) on any comments or motions filed.

k. *Description of Request*: The licensee requests an amendment of license to as-built project works; specifically to add a primary transmission line approximately seven miles long from the project's switch yard to the Quechee Substation in Quechee, VT, as opposed to a one-quarter mile long line, and revise the project boundary accordingly.

l. *Locations of the Application*: A copy of the application is available for inspection and reproduction at the Commission's 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 ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call 1–866–208–3676 with 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. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the applicant specified in the particular application.

p. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1499 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

January 16, 2003.

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.:* 12316–000.

c. *Date filed*: July 30, 2002.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Falls Lake Dam Project.

f. *Location:* On the Neuse River, in Wake County, North Carolina, utilizing the U.S. Army Corps of Engineers Falls Lake Dam.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C.791(a)–825(r).

h. *Applicant Contact:* Mr. Raymond Helter, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. Deadline for filing comments, protests, and motions to intervene: 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. 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. Please include the project number (P–12316–000) on any comments 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 project would utilize the Corps existing Falls Lake Dam and would consist of: (1) a proposed 50-foot-long, 62-inch diameter steel penstock, (2) a proposed powerhouse containing one generating unit having an installed capacity of 1 MW, (3) a proposed 500-foot-long, 14.7 kV transmission line, and (4) appurtenant facilities.

Applicant estimates that the average annual generation would be 6 GWh and would be sold to a local utility.

l. 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 ''FERRIS'' 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. 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.

n. 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.

o. 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.

p. 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.

q. 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.

r. 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'', ''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.

s. 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. 03–1501 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

January 16, 2003.

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.:* 12325–000.

c. *Date filed*: August 2, 2002.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* LaGrange L&D Project.

f. *Location:* On the Illinois River, in Cass County, Illinois, utilizing the U.S. Army Corps of Engineers' LaGrange Lock and Dam.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Raymond Helter, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. Deadline for filing comments, protests, and motions to intervene: 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. 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. Please include the project number (P–12325–000) on any comments 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 project would utilize the existing Corps' LaGrange Lock and Dam and consist of: (1) five proposed 50-foot-long, 84-inch diameter steel penstocks, (2) a proposed powerhouse containing five generating units having an installed capacity of 9.1 MW, (3) a proposed 100-foot-long, 14.7 kV transmission line, and (4) appurtenant facilities.

Applicant estimates that the average annual generation would be 56 GWh and would be sold to a local utility.

l. 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 ''FERRIS'' 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. 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.

n. 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.

o. 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.

p. 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.

q. 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.

r. 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'', ''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.

s. 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. 03–1502 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

January 16, 2003.

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.:* 12330–000.

c. *Date filed*: August 2, 2002.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* John W. Flannagan Dam Project.

f. *Location:* On the Pound River, in Dickenson County, Virginia, utilizing the U.S. Army Corps of Engineers' John W. Flannagan Dam.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Raymond Helter, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. Deadline for filing comments, protests, and motions to intervene: 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. 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. Please include the project number (P–12330–000) on any comments 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 project would utilize the Corps existing John W. Flannagan Dam and consist of: (1) a proposed 50-foot-

long, 72-inch diameter steel penstock, (2) a proposed powerhouse containing three generating units having an installed capacity of 3 MW, (3) a proposed 200-foot-long, 14.7 kV transmission line, and (4) appurtenant facilities.

Applicant estimates that the average annual generation would be 18 GWh and would be sold to a local utility.

l. 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 ''FERRIS'' 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. 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.

n. 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.

o. 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.

p. 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.

q. 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.

r. 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'', ''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.

s. 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. 03–1503 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

January 16, 2003.

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.:* 12332–000.

c. *Date filed*: August 5, 2002.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Dashields L&D Project.

f. *Location:* On the Ohio River, in Allegheny County, Pennsylvania, utilizing the U.S. Army Corps of Engineers' Dashields Lock and Dam.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Raymond Helter, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. Deadline for filing comments, protests, and motions to intervene: 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. 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. Please include the project number (P–12332–000) on any comments 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 project would utilize the Corps' existing Dashields Lock and Dam and consist of: (1) 10 proposed 42-foot-long, 132-inch diameter steel penstocks, (2) a proposed powerhouse containing ten generating units having an installed capacity of 22.5 MW, (3) a proposed 1.5-mile-long, 14.7 kV transmission line, and (4) appurtenant facilities.

Applicant estimates that the average annual generation would be 142 GWh and would be sold to a local utility.

l. 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 ''FERRIS'' 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. 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.

n. 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.

o. 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.

p. 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.

q. 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.

r. 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'', ''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.

s. 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. 03–1504 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

January 16, 2003.

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.:* 12333–000.

c. *Date filed*: August 9, 2002.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Hugo Dam Project.

f. *Location:* On the Kiamichi River, in Choctaw County, Oklahoma, utilizing the U.S. Army Corps of Engineers' Hugo Dam.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Raymond Helter, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. Deadline for filing comments, protests, and motions to intervene: 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. 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. Please include the project number (P–12333–000) on any comments 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 project would utilize the Corps' existing Hugo Dam and consist of: (1) two proposed 70-foot-long, 96-inch diameter steel penstocks, (2) a proposed powerhouse containing two generating units having an installed capacity of 2 MW, (3) a proposed 2-mile-long, 14.7 kV transmission line, and (4) appurtenant facilities.

Applicant estimates that the average annual generation would be 13 GWh and would be sold to a local utility.

l. 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 ''FERRIS'' 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. 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.

n. 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.

o. 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.

p. 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.

q. 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.

r. 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'', ''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.

s. 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. 03–1505 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

January 16, 2003.

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.:* 12343–000.

c. *Date filed*: August 21, 2002.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Kentucky L&D #13 Project.

f. *Location:* On the Kentucky River, in Lee County, Kentucky, utilizing the U.S. Army Corps of Engineers' Kentucky Lock and Dam #13.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Raymond Helter, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. Deadline for filing comments, protests, and motions to intervene: 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. 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. Please include the project number (P–12343–000) on any comments 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 project would utilize the Corps' existing Kentucky Lock and Dam #13 and consist of: (1) two proposed 50-foot-long, 72-inch diameter steel penstocks, (2) a proposed powerhouse containing two generating units having an installed capacity of 2 MW, (3) a proposed 300-foot-long, 14.7 kV transmission line, and (4) appurtenant facilities.

Applicant estimates that the average annual generation would be 12.3 GWh and would be sold to a local utility.

l. 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 ''FERRIS'' 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. 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.

n. 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.

o. 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.

p. 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.

q. 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.

r. 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'', ''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.

s. 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. 03–1506 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

January 16, 2003.

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.:* 12348–000.

c. *Date filed*: August 21, 2002.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Arkansas L&D #3 Project.

f. *Location:* On the Arkansas River, in Jefferson and Lincoln Counties, Arkansas, utilizing the U.S. Army Corps of Engineers' Kentucky Lock and Dam #3.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Raymond Helter, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. Deadline for filing comments, protests, and motions to intervene: 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. 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. Please include the project number (P–12348–000) on any comments 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 project would utilize the Corps' existing Kentucky Lock and Dam #3 and consist of: (1) a proposed powerhouse containing 11 generating units having an installed capacity of 22.75 MW, (2) a proposed 14.7 kV transmission line, and (3) appurtenant facilities.

Applicant estimates that the average annual generation would be 150 GWh and would be sold to a local utility.

l. 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 ''FERRIS'' 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. 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.

n. 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.

o. 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.

p. 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.

q. 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.

r. 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'', ''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.

s. 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.

Dated:

Magalie R. Salas,

Secretary.

[FR Doc. 03–1507 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

January 16, 2003.

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.:* 12355–000.

c. *Date filed*: August 21, 2002.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Kentucky Lock and Dam #9 Project.

f. *Location:* On the Kentucky River, in Jessamine County, Kentucky, utilizing the U.S. Army Corps of Engineers' Kentucky Lock and Dam #9.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Raymond Helter, Universal Electric Power Corp.,

1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. Deadline for filing comments, protests, and motions to intervene: 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. 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. Please include the project number (P–12355–000) on any comments 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 project would utilize the Corps existing Kentucky Lock and Dam #9 and consist of: (1) two proposed 50-foot-long, 96-inch diameter steel penstocks, (2) a proposed powerhouse containing two generating units having an installed capacity of 2.55 MW, (3) a proposed 100-foot-long, 14.7 kV transmission line, and (4) appurtenant facilities.

Applicant estimates that the average annual generation would be 16 GWh and would be sold to a local utility.

l. 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 ''FERRIS'' 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. 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.

n. 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.

o. 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.

p. 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.

q. 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.

r. 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'', ''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.

s. 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.

Dated:

Magalie R. Salas,

Secretary.

[FR Doc. 03–1508 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

January 16, 2003.

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.:* 12394–000.

c. *Date filed:* October 16, 2002.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name and Location of Project:* The David Terry L&D #6 Hydroelectric Project would be located on the Arkansas River in Pulaski County, Arkansas. The proposed project would utilize the existing David D. Terry Lock and Dam administered by the U.S. Army Corps of Engineers.

f. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)—825(r).

g. *Applicant contact*: Mr. Raymond Helter, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

h. *FERC Contact:* Tom Papsidero, (202) 502–6002.

i. Deadline for filing comments, protests, and motions to intervene: 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. 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. Please include the project number (P–12394–000) on any comments 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.

j. *Description of Project*: The proposed project, using the Corps' existing David D. Terry Lock and Dam and Reservoir, would consist of: (1) 15 proposed 40-foot-long, 9.5-foot-diameter steel penstocks, (2) a proposed powerhouse containing sixteen generating units with a combined installed capacity of 30.6 megawatts, (3) a proposed 500-foot-long, 14.7-kv transmission line, and (4) appurtenant facilities. The project would operate in a run-of-river mode and would have an average annual generation of 188 GWh.

k. 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 ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3678 or e-mail *ferconlinesupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the applicant's address in item g above.

l. 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.

m. 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.

n. 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.

o. 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.

p. 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.

q. 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.

r. Agency Comments—Federal, tate, 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. 03–1509 Filed 1–22–03; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 03–135]

Public Safety National Coordination Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document advises interested persons of a meeting of the Public Safety National Coordination Committee (''NCC''), which will be held in Washington, DC. The Federal Advisory Committee Act, Public Law 92–463, as amended, requires public notice of all meetings of the NCC. This notice advises interested persons of the nineteenth meeting of the Public Safety National Coordination Committee.

DATES: February 21, 2003 at 9:30 a.m.–12:30 p.m.

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

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer, Michael J. Wilhelm, (202) 418–0680, e-mail *mwilhelm@fcc.gov.* Press Contact, Meribeth McCarrick, Wireless Telecommunications Bureau, 202–418–0600, or e-mail *mmccarri@fcc.gov.*

SUPPLEMENTARY INFORMATION: Following is the complete text of the Public Notice: This Public Notice advises interested persons of the nineteenth meeting of the Public Safety National Coordination Committee (''NCC''), which will be held in Washington, DC. The Federal Advisory Committee Act, Public Law 92–463, as amended, requires public notice of all meetings of the NCC.

Date: February 21, 2003.

Meeting Time: General Membership Meeting—9:30 a.m.–12:30 p.m.

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

The NCC Subcommittees will meet from 9 a.m. to 5:30 p.m. the previous day. The NCC General Membership Meeting will commence at 9:30 a.m. and continue until 12:30 p.m. The agenda for the NCC membership meeting is as follows:

1. Introduction and Welcoming Remarks
2. Administrative Matters
3. Report from the Interoperability Subcommittee
4. Report from the Technology Subcommittee
5. Report from the Implementation Subcommittee
6. Public Discussion
7. Action on Subcommittee Recommendations
8. Other Business
9. Upcoming Meeting Dates and Locations
10. Closing Remarks

The FCC has established the Public Safety National Coordination Committee, pursuant to the provisions of the Federal Advisory Committee Act, to advise the Commission on a variety of issues relating to the use of the 24 MHz of spectrum in the 764–776/794–806 MHz frequency bands (collectively, the 700 MHz band) that has been allocated to public safety services. See The Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010 and Establishment of Rules and Requirements For Priority Access Service, WT Docket No. 96–86, First Report and Order and Third Notice of Proposed Rulemaking, FCC 98–191, 14 FCC Rcd 152 (1998), 63 FR 58645 (11–2–98).

The NCC has an open membership. Previous expressions of interest in membership have been received in response to several Public Notices inviting interested persons to become members and to participate in the NCC's processes. All persons who have previously identified themselves or have been designated as a representative of an organization are deemed members and are invited to attend. All other interested parties are hereby invited to attend and to participate in the NCC processes and its meetings and to become members of the Committee. This policy will ensure balanced participation. Members of the general public may attend the meeting. To attend the nineteenth meeting of the Public Safety National Coordination Committee, please RSVP to Joy Alford of the Policy and Rules Branch of the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau of the FCC by calling (202) 418–0680, by faxing (202) 418–2643, or by E-mailing at *jalford@fcc.gov.* Please provide your name, the organization you represent, your phone number, fax number and e-mail address. This RSVP is for the purpose of determining the number of people who will attend this nineteenth meeting. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. Persons requesting accommodations for hearing disabilities should contact Joy Alford immediately at (202) 418–7233 (TTY). Persons requesting accommodations for other physical disabilities should contact Joy Alford immediately at (202) 418–0694 or via e-mail at *jalford@fcc.gov.* The public may submit written comments to the NCC's Designated Federal Officer before the meeting.

Additional information about the NCC and NCC-related matters can be found on the NCC Web site located at: *http://wireless.fcc.gov/publicsafety/ncc.*

Federal Communications Commission.

Jeanne Kowalski,

Deputy Division Chief for Public Safety, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 03–1456 Filed 1–22–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 02–145, FCC 02–338]

Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document is in compliance with the Communications Act of 1934, as amended, which requires the Commission to report annually to Congress on the status of competition in the market for the delivery of video programming.

On December 23, 2002, the Commission adopted its ninth annual report (*2002 Report*). The *2002 Report* contains data and information that summarize the status of competition in markets for the delivery of video programming and updates the Commission's prior reports.

FOR FURTHER INFORMATION CONTACT: Marcia Glauberman or Anne Levine, Media Bureau (202) 418–7200, TTY (202) 418–7172.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *2002 Report* in MB Docket No. 02–145, FCC 02–338, adopted December 23, 2002, and released December 31, 2002. The complete text of the *2002 Report* is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554, and may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2890, or e-mail at *qualex@aol.com.* In addition, the complete text of the *2002 Report* is

available on the Internet at *http://www.fcc.gov/mb.*

Synopsis of the 2002 Report

1. The *2002 Report* provides updated information on the status of competition in the market for the delivery of video programming, discusses changes that have occurred in the competitive environment over the last year, and describes barriers to competition that continue to exist. Overall, although competitive alternatives continue to develop, cable television still is the dominant technology for the delivery of video programming to consumers in the multichannel video program distributor (MVPD) services marketplace. As of June 2002, 76.5 percent of MVPD subscribers received their video programming from a franchised cable operator, compared to 78 percent a year earlier.

2. The number of cable subscribers reached nearly 68.8 million as of June 2002, up about 0.4 percent from the 68.55 million cable subscribers in June 2001. Although industry data collected for this report period reflect continued growth through June 2002, a number of major cable system operators have experienced significant subscriber losses and calendar year 2002 may be the first year in which the cable industry as a whole experiences a net loss of subscribers.

3. The total number of non-cable MVPD subscribers grew to 21.1 million as of June 2002 from 19.3 million as of June 2001, an increase of more than nine percent. Direct broadcast satellite (DBS) service has grown significantly and now represents 20.3 percent of all MVPD subscribers. Between June 2001 and June 2002, the number of DBS subscribers grew from almost 16 million households to about 18 million households, which is significantly higher than the cable subscriber growth rate.

4. Over the last year, the number of subscribers to multichannel multipoint distribution service (MMDS) and large dish satellite service (HSD) continue to decline. The participation of incumbent local exchange carriers in the distribution of video programming also continue to decline. The number of subscribers to open video systems (OVS) and private cable has remained relatively stable, although their market share remains small.

5. During the period under review, cable rates continued to rise. According to the Bureau of Labor Statistics, between June 2001 and June 2002, cable prices rose 6.3 percent compared to a 1.1 percent increase in the Consumer Price Index, which measures general price changes. Concurrently with these rate increases, the number of video and non-video services offered increased and programming costs increased.

6. As the Commission reported earlier, the four largest incumbent local exchange carriers or telephone companies, have largely exited the video business. This remains true today. A few smaller local exchange carriers continue to offer, or are preparing to offer, MVPD service over existing telephone lines. Alternatively, several cable multiple system operators continue to offer telephone services. Cable operators are beginning to deploy Internet protocol telephony solutions in addition to circuit-switched telephone offerings.

7. The most significant convergence of service offerings continues to be the pairing of Internet service with other service offerings. Cable operators continue to build-out the broadband infrastructure that permits them to offer high-speed Internet access. Like cable, the DBS industry is developing ways to bring advanced services to their customers. Many MMDS and private cable operators also offer Internet services. In addition, broadband service providers continue to build advanced systems specifically to offer a bundle of services, including video, voice, and high-speed Internet access.

8. Non-cable MVPDs continue to report that regulatory and other barriers to entry limit their ability to compete with incumbent cable operators. Non-cable MVPDs continue to experience some difficulties in obtaining programming from vertically-integrated cable programmers and from unaffiliated programmers which continue to make exclusive agreements with operators. In multiple dwelling units potential entry may be discouraged or limited because an incumbent video programming distributor has a long term and/or exclusive contract. In addition, non-cable MVPDs report problems obtaining franchises from local governments and difficulties in gaining access to utility poles needed to build out their systems.

9. In sum, the *2002 Report* details the status of competitors in the market for the delivery of video programming including: Cable systems, DBS and home satellite dishes, wireless cable systems, private cable operators, broadcast television, local exchange carrier entry, open video systems, broadband service providers, Internet video, home video sales and rentals, and electric and gas utilities. The report also examines market structure and competition by evaluating horizontal concentration in the MVPD marketplace; analyzing vertical integration between cable television systems and programming services; and discussing technical issues such as cable modems, navigation devices and emerging services.

Ordering Clauses

10. The *2002 Report* is issued pursuant to authority contained in sections 4(i), (4)(j) , 403, and 628(g) of the Communications Act of 1934 as amended, 47 U.S.C. 154(i), 154(j), 403, and 548(g).

11. The Commission's Office of Legislative Affairs shall send copies of the *2002 Report* to the appropriate committees and subcommittees of the United States House of Representatives and the United States Senate.

12. The proceeding in MB Docket No. 02–145 is terminated.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–1459 Filed 1–22–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, January 28, 2003, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, January 30, 2003, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Correction and approval of minutes.

New and amended FEC reporting forms—BCRA implementation.

New and amended instructions for FEC reporting forms—BCRA implementation.

Administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer. Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 03–1669 Filed 1–21–03; 2:41 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 17096NF.
Name: Aero Costa International, Inc.
Address: 460 E. Carson Plaza Drive, Suite 220, Carson, CA 90746.
Date Revoked: December 25, 2002.
Reason: Failed to maintain valid bonds.

License Number: 17467NF.
Name: Baska Logistics & Trading, Inc.
Address: 7105 NW. 53rd Terrace, Miami, FL 33166.
Date Revoked: December 19, 2002.
Reason: Failed to maintain valid bonds.

License Number: 11289N.
Name: Cargo Marketing Services Limited dba Procon Express Lines.
Address: The Old Bakery, One Shaw Lane, Lichfield, Staffordshire, WS1 7AG, United Kingdom.
Date Revoked: December 8, 2002.
Reason: Failed to maintain a valid bond.

License Number: 3508N.
Name: E & B International, Inc.
Address: 5353 E. Princess Anne Road, Suite A, Norfolk, VA 23502.
Date Revoked: December 19, 2002.
Reason: Failed to maintain a valid bond.

License Number: 16982NF.
Name: GKN Freight Services, Inc.
Address: 209 S. Washington Street, Van Wert, OH 45891.
Date Revoked: December 27, 2002.
Reason: Failed to maintain valid bonds.

License Number: 3314F.
Name: Hol-Mar International, Inc.
Address: 11600 Jones Road, Suite 108–21, Houston, TX 77070.
Date Revoked: December 12, 2002.
Reason: Failed to maintain a valid bond.

License Number: 17310N.
Name: J.M.C. Transport Corporation.
Address: 9133 South La Cienega Blvd., Suite 120, Inglewood, CA 90301.
Date Revoked: December 8, 2002.
Reason: Failed to maintain a valid bond.

License Number: 1517F.
Name: Lanier Shipping Company, Inc.
Address: 60 West Main Street, Bogota, NJ 07603.
Date Revoked: December 27, 2002.
Reason: Failed to maintain a valid bond.

License Number: 15439N.
Name: Legend International Express Inc.
Address: 147–34 176th Street, Jamaica, NY 11434.
Date Revoked: November 29, 2002.
Reason: Failed to maintain a valid bond.

License Number: 16126N.
Name: Motorvation Services Inc.
Address: P.O. Box 348, 100 Broad Street, Tonawanda, NY 14151.
Date Revoked: December 8, 2002.
Reason: Failed to maintain a valid bond.

License Number: 15989N.
Name: Noram Agencies, Ltd.
Address: 2928 Terminal Avenue, Everett, WA 98201.
Date Revoked: February 11, 2002.
Reason: Failed to maintain a valid bond.

License Number: 15295N.
Name: Overseas Container Services, Inc. dba OCS.
Address: 256 Commercial Blvd., Lauderdale by the Sea, FL 33308.
Date Revoked: December 20, 2002.
Reason: Failed to maintain a valid bond.

License Number: 1007F.
Name: R.J. McCracken & Son, Inc.
Address: 5345 44th Street, SE., Grand Rapids, MI 49512.
Date Revoked: December 25, 2002.
Reason: Failed to maintain a valid bond.

License Number: 17322N.
Name: Trans State Logistics, Inc.
Address: 1011 South Fremont Avenue, Suite 203, Alhambra, CA 91803.
Date Revoked: December 8, 2002.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 03–1491 Filed 1–22–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011405–016.
Title: Ocean Carrier Working Group Agreement.
Parties: The Latin America Agreement, the Israel Trade Conference, the Trans-Atlantic Conference Agreement, the Transpacific Stabilization Agreement, the Untied States Australasia Agreement, the United States/South Europe Conference, the Westbound Transpacific Stabilization Agreement, the Middle East Indian Subcontinent Discussion Agreement, A.P. Moller Maersk Sealand, Contship Containerlines, Evergreen Marine Corporation, King Ocean Service de Venezuela, Star Shipping, Tropical Shipping & Construction Company, Wallenius Wilhelmsen Lines, Zim Israel Navigation, and Hapag-Lloyd.
Synopsis: The amendment deletes the Mediterranean-North Pacific Coast Freight Conference as a party and updates the memberships of the Westbound Transpacific Stabilization Agreement and the Middle East Indian Subcontinent Discussion Agreement.

Agreement No.: 011838.
Title: MOL/WLS Space Charter Agreement.
Parties: Mitsui O.S.K. Lines, Ltd., World Logistics Service (U.S.A.), Inc.
Synopsis: Under the proposed agreement, Mitsui will charter space to World Logistics in the trade from Veracruz, Mexico to ports on the U.S. Atlantic and Gulf Coasts.

Dated: January 17, 2003.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–1489 Filed 1–22–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission

pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/Address	Date Reissued
17370NF	Antilles Wholesale Company, 1759 Bay Road, Miami Beach, FL 33139	November 9, 2002.
16503NF	Lukini Shipping Inc., Cargo Building 80, Rm. 203, Jamaica, NY 11430	May 25, 2002.
3896F	Sino AM Cargo, Inc., 1335 Evans Avenue, San Francisco, CA 94124	April 4, 2001.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 03–1490 Filed 1–22–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL TRADE COMMISSION

Revised Jurisdictional Thresholds for Section 8 of the Clayton Act

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission announces the revised thresholds for interlocking directorates required by the 1990 amendment of section 8 of the Clayton Act. Section 8 prohibits, with certain exceptions, one person from serving as a director or officer of two competing corporations if two thresholds are met. Competitor corporations are covered by section 8 if each one has capital, surplus, and undivided profits aggregating more than $10,000,000, with the exception that no corporation is covered if the competitive sales of either corporation are less than $1,000,000. Section 8(a)(5) requires the Federal Trade Commission to revise those thresholds annually, based on the change in gross national product. The new thresholds, which take effect immediately, are $18,919,000 for Section 8(a)(1), and $1,891,900 for section 8(a)(2)(A).

EFFECTIVE DATE: January 23, 2003.

FOR FURTHER INFORMATION CONTACT: James F. Mongoven, Bureau of Competition, Office of Policy and Evaluation, (202) 326–2879.

(Authority: 15 U.S.C. 19(a)(5)).

By direction of the Commission

Donald S. Clark,

Secretary.

[FR Doc. 03–1488 Filed 1–22–03; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Presidential Advisory Council on HIV/AIDS

AGENCY: Office of the Secretary, Office of Public Health and Science.

ACTION: Notice of meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the Presidential Advisory Council on HIV/AIDS (PACHA) will hold a meeting. This meeting is open to the public. A description on the Council's functions is included also with this notice.

DATES AND TIMES: January 30, 2002, 8 a.m. to 6 p.m., and January 31, 2003, 8 a.m. to 4:45 p.m.

ADDRESSES: Hubert Humphrey Building, Room 800; 200 Independence Ave. SW.; Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Patricia F. Ware, Executive Director, Presidential Advisory Council on HIV/AIDS, 734 Jackson Place, NW.; Washington, DC 20503; (303) 456–7334 or visit the Council's website at *http://www.pacha.gov*.

SUPPLEMENTARY INFORMATION: PACHA was established by Executive Order 12963, dated June 14, 1995, as amended by Executive Order 13009, dated June 14, 1996. The Council was established to provide advice, information, and recommendations to the Secretary regarding programs and policies intended to (a) promote effective prevention of HIV disease, (b) advance research on HIV and AIDS, and (c) promote quality services to persons living with HIV disease and AIDS. PACHA was established to serve solely as an advisory body to the Secretary of Health and Human Services. The Council is to be composed of not more than 35 members. Council membership is selected by the Secretary from individuals who are considered authorities with particular expertise in, or knowledge of, matters concerning HIV/AIDS.

The agenda for this Council meeting includes the following topics: disparities in HIV/AIDS health care, HIV/AIDS prevention, and HIV/AIDS international issues. Time will be allotted during the meeting for public comment.

This notice is being published less than 15 days in advance of the meeting due to scheduling conflicts.

Dated: January 16, 2003.

Patricia F. Ware,

Executive Director, presidential Advisory Council on HIV/AIDS.

[FR Doc. 03–1535 Filed 1–17–03; 3:34 pm]

BILLING CODE 4150–28–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03007]

Childhood Lead Poisoning Prevention Programs (CLPPP); Notice of Availability of Funds

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a), 317A and 317B of the Public Health Service Act [42 U.S.C. 241(a), 247b–1, and 247b–3], as amended by the Children's Health Act of 2000. Program regulations are set forth in Title 42, Code of Federal Regulations, Part 51b to State and local health departments. The Catalog of Federal Domestic Assistance number is 93.197.

B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2003 funds for a cooperative agreement program for Childhood Lead Poisoning Prevention Programs (CLPPP). This program addresses the ''Healthy People 2010'' environmental health objective to eliminate elevated blood lead levels in children. (found at: *http://www.health.gov/healthypeople/*)

The purpose of the program is to assist state and local partners in building capacity to eliminate childhood lead poisoning as a major public health problem. The focus of the program is children under the age of six. Special emphasis will be placed on children under the age of 3 who have elevated blood lead levels. The program will also address families with children under the age of six who do not yet have elevated blood lead levels.

Measurable outcomes of the program will be in alignment with the following

performance goal of the National Center for Environmental Health (NCEH): reduce the burden of lead poisoning in children.

A glossary of scientific and technical terms can be found in Appendix I. A background statement about the CDC program can be found in Appendix II. All appendices and attachments are posted with this announcement on the CDC Web site.

C. Eligible Applicants

Applications may be submitted by state health departments, their bona fide agents, and the health departments of the following five local jurisdictions that have the highest estimated number of children with elevated blood lead levels: New York, NY; Chicago, IL; Detroit, MI; Los Angeles County, CA, and Philadelphia, PA, or their bona fide agents. (See Appendices III and IV for more information on city blood lead levels.) Applications may also be submitted by the health departments or other official organizational authorities of the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian tribal governments. Competition is limited to these entities by authorizing legislation.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501c(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

D. Funding

Availability of Funds

Approximately $31,000,000 is available in FY 2003 to fund approximately 40 awards. It is expected that the average award will be $775,000, ranging from $75,000 to $1,700,000. It is expected that the awards will begin on or about July 1, 2003 and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change, depending on availability of funds.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds must be used for the following program activities: (a) The writing, implementation and evaluation of a jurisdiction-wide childhood lead poisoning elimination plan; (b) the writing, implementation, and evaluation of screening plans to target resources to children at the highest risk for lead poisoning; (c) a jurisdiction-wide childhood lead surveillance program, with an analysis plan for collected data; (d) primary prevention activities for pregnant women and/or families with children at high risk for lead poisoning; (e) an assurance plan for timely and appropriate case management of children with elevated blood lead levels; (f) demonstration of strategic partnering with community organizations and with other state/local agencies involved in environmental and child health activities; (g) substantial coordination with organizations and agencies involved in lead-based paint hazard reduction activities and development of protective policy; and (h) evaluation of programmatic impact on childhood lead poisoning within the applicant's jurisdiction.

Funds may not be expended for medical care and treatment, or for environmental remediation of sources of lead exposure. However, the applicant must provide a plan to ensure that these program activities are carried out and demonstrate their program's appropriate involvement with medical care, treatment and remediation efforts.

Not more than 10 percent (exclusive of direct assistance) of any cooperative agreement or contract (sub-grantee or consultant) funded through the cooperative agreement may be obligated for administrative costs. This 10 percent limitation is in lieu of, and replaces, the indirect cost rate.

Recipient Financial Participation

Matching funds are not required for this program. Applicant must assure that income earned by the CLPPP will be returned to the program to support lead poisoning prevention activities.

Funding Preference

CDC will give funding preference to state programs that have significant estimated numbers of children with elevated blood lead levels, and that direct federal funds to localities with high concentrations of children at risk for childhood lead poisoning. CDC will also give funding preference to the five local jurisdictions with the highest estimated number of children with elevated blood lead levels. Guidance is available in Appendices III and IV, CDC's estimate of children under age six with elevated blood lead levels by city and state, respectively.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities in 1. Recipient Activities, and CDC will be responsible for the activities listed in 2. CDC Activities.

1. Recipient Activities

a. Childhood Lead Poisoning Elimination Plan

• Programs must establish an advisory workgroup or committee (or expand the scope of its current advisory group) to publish and implement a statewide or jurisdiction-wide childhood lead poisoning elimination plan. The group should also serve to monitor the progress of the elimination plan, and to leverage resources and enhance cooperative efforts towards this goal.

—This committee/workgroup should, at a minimum, include representatives from the Health Department, Housing and Urban Development (HUD) and/or the housing department, Environmental Protection Agency (EPA) and/or the state or local environmental regulatory agency, and the state Medicaid agency.

—Member representatives should have sufficient authority to support an inter-agency committee/workgroup, and to commit staff and resources to the elimination work plan.

—By the end of year one, programs must write a statewide or jurisdiction-wide strategic plan to eliminate childhood lead poisoning as a major public health problem by 2010. At a minimum, the plan must include the following elements:

Mission Statement
Purpose and Background on Lead Poisoning Prevalence
Goals, Objectives and Activities
Evaluation Plan

Further guidance on developing the elimination plan and forming the advisory workgroup or committee is located in Appendix V, ''Guidance for Developing a Jurisdiction-wide Strategic Plan for the Elimination of Childhood Lead Poisoning.''

b. Targeted Screening Plan

• Programs will write, implement and evaluate a jurisdiction-wide screening plan to target resources to impact the largest numbers of children at high risk for lead poisoning. Particular emphasis should be placed on children under three years of age and at high risk. Applicants should refer to the CDC publication, ''Screening Young Children for Lead Poisoning: Guidance for State

and Local Public Health Officials'' (found at: *http://www.cdc.gov/nceh/lead/guide/guide97.htm*) and to Appendices III and IV, the CDC estimates of children under six with elevated blood lead levels by city and state.

• Programs with an approved jurisdiction-wide screening plan already in place should include a copy as an appendix to their application. Application work plans must include goals and objectives describing screening performance measures and plans for periodic evaluation and improvement of the screening plan.

• Programs without a screening plan will provide work plan objectives for publishing and implementing a screening plan within one year of award.

• The screening plan should address uses of health education and communication to the targeted screening population. Additionally, the screening plan should address the education and communication of screening recommendations and childhood lead poisoning prevention efforts to health care providers.

• The screening plan will be reviewed and updated at least annually, and resubmitted to the assigned CDC Project Officer for review and comment.

c. Surveillance

• Programs must maintain and/or enhance a statewide or jurisdiction-wide childhood lead surveillance system to meet the criteria in Appendix VI (Elements Of Developing And Maintaining A Surveillance System). If programs do not have an existing surveillance system that meets these criteria, the application work plan should include objectives demonstrating how the surveillance system will be designed and implemented to meet the criteria within the first year of the project period. The program should also describe the implementation, or planned implementation, of regulations within the state or jurisdiction requiring the reporting of all blood lead results for children less than 72 months of age.

d. Primary Prevention

• Programs must conduct childhood lead poisoning primary prevention activities for families at high risk for lead poisoning to include those who live in housing built prior to 1978. The program should focus activities on pregnant women and/or families with young children at high-risk for lead poisoning exposure. The program should consider, but is not limited to, the examples of primary prevention activities in Appendix VII.

• Educational material and media campaigns may be used to support primary prevention activities.

• Primary prevention activities must be regularly evaluated for effectiveness in reducing the childhood lead burden in higher risk communities and/or populations. Evaluation of primary prevention activities should not include human subjects research.

e. Case Management of Children With Elevated Blood Lead Levels

• Provide a written case management plan consistent with published state and local guidelines, or the recommendations from the National Advisory Committee on Childhood Lead Poisoning Prevention, ''Managing Elevated Blood Lead Levels Among Young Children'', (found at: *http://cdc.gov/nceh/lead/CaseManagement/caseManage_main.htm*), within the first six months of the project period.

• Establish specific application work plan goals and objectives for reducing over-all morbidity (in children identified with elevated blood lead levels) by tracking and assuring appropriate and timely coordination of case management activities in accordance with established protocols.

• Implement targeted health education and communication activities to support improvements in timely and appropriate care.

• Case management will be evaluated at least quarterly using surveillance and case management data. At a minimum, the program should review the time frames for (a) initiating and completing case management services, including the first home visit; (b) a written care plan for each case; (c) the reduction of blood lead level rates; and (d) the rates of case closure by category (e.g., medical or administrative closure.)

f. Strategic Partnerships

• The program should demonstrate the development of strategic partnerships with community organizations, health-care providers, and other governmental and non-governmental organizations conducting childhood lead poisoning prevention activities and/or developing protective policies, as well as other programs focused on children likely to be at high risk for lead poisoning (e.g., Women, Infant and Children Program (WIC), Immunizations, Asthma Control, Head Start and Healthy Start).

• Strategic partnerships should be demonstrated by the inclusion of letters of support, memoranda of understanding, and/or contracts in the application.

• Guidance for working with and within communities can be found in the CDC document, ''Principles of Community Engagement'' (found at: *http://www.cdc.gov/phppo/pce/index.htm).*

g. Activities With Organizations and Agencies Engaged in Lead Hazard Reduction and Development of Protective Policy

• The applicant should demonstrate coordination of, or plans to coordinate activities with those organizations engaged in lead remediation and abatement (*e.g.*, housing agencies, HUD funded lead hazard reduction grantees, and banking, real estate, and insurance interests).

• Planned or ongoing activities should include the education and communication of childhood lead poisoning prevention efforts and protective policies to target audiences (*e.g.*, landlords, homeowners, legislative officials).

• Planned or ongoing coordination activities should be demonstrated by the inclusion of letters of support, memoranda of understanding, and/or contracts in the application.

h. Evaluation Plan

The evaluation plan should address the effectiveness of the CLPPP by program area, as well as the overall impact of the program in reducing and preventing childhood lead poisoning within the jurisdiction. Evaluation should take place at least annually.

The evaluation plan should: (1) Address the program as a whole; (2) specifically address each program goal; (3) have measurable, achievable and time-phased objectives; (4) focus on programmatic outcome/impact on eliminating childhood lead poisoning as a public health problem; (5) include the name and qualifications of the person responsible for conducting the evaluation; (6) specify how often evaluation will be conducted; and (7) discuss how the results of the evaluation will be built into improving each of the program components.

The same terms and definitions used for the work plan should be used in the evaluation plan (see Appendix VIII).

Guidance related to the components of an effective evaluation plan can be found in the CDC document ''Framework for Program Evaluation in Public Health'' (found at: *http://www.cdc.gov/eval/framework.htm*). Additional guidance can be found at the ''CDC Evaluation Working Group Web Site'' (*http://www.cdc.gov/eval/*).

The program should specify whether or not identifiable information will be

included in evaluation-related analysis. Use of identifiable information may require Institutional Review Board (IRB) approval.

2. CDC Activities

a. Provide technical assistance and scientific consultation on program development, implementation, and operational issues.

b. Provide technical assistance and scientific consultation regarding the development and implementation of all surveillance activities, including data collection methods and analysis of data. Assist with improving data linkages with federally funded, means-tested public benefit programs (WIC, Head Start, etc.)

c. Assist in the development of elimination plans and targeted screening plans by providing technical assistance and training on tools such as Geographic Information Systems (GIS) software.

d. Assist with interpretation of individual state surveillance data.

e. Review draft work plans and provide guidance.

f. Review draft program evaluation criteria and presentation formats, and provide guidance.

F. Content

Applications

The Program Announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 35 pages, double-spaced, printed on one side, with one-inch margins, and unreduced 12-point font.

The narrative should consist of, at a minimum, a work plan, an evaluation plan, and budget. The work plan must include project goals and first year objectives for each of the program areas listed under Program Requirements, Recipient Activities in this announcement (paragraph E, 1., a.–h.), The applicant should also include a tentative work plan and timetable for the remaining years of the proposed project.

The applicant should provide a detailed work plan that describes how the overall CLPPP and each of the eight program areas described within the application will be conducted. See Appendix VIII (Work Plan) for guidance.

Pursuant to section 317A of the Public Health Service Act (42 U.S.C. 247b–1), as amended by Section 303 of the ''Preventive Health Amendments of 1992'' (Pub. L. 102–531), applicants must meet the following requirements: For CLPPP services that are Medicaid-reimbursable in the applicant's state:

- Applicants directly providing these services must be enrolled with their state Medicaid agency as a Medicaid provider.
- Providers entering into agreements with the applicant to provide such services must be enrolled with their State Medicaid agency as a Medicaid provider. An exception to this requirement will be made for providers whose services are provided free of charge, and who accept no reimbursement from any third-party payer. Providers accepting voluntary donations may still be exempted from this requirement.

To satisfy this program requirement, applicants must submit a copy of a Medicaid provider certificate or statement as proof that this requirement will be met. Failure to include this information will result in the application being returned. This information should be placed immediately behind the budget and budget justification pages.

G. Submission and Deadline

Application Forms

Submit the signed original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) at (770) 488–2700. Application forms can be mailed to you.

Application forms must be submitted in the following order:

Cover Letter
Table of Contents
Application
Narrative with Work Plan and Evaluation Plan
Budget Information Form
Budget Justification
Medicaid Provider Certificate/Statement of Proof
Checklist
Assurances
Certifications
Disclosure Forms

Submission Date, Time, and Address

The application must be received by 4 p.m. Eastern Time, March 24, 2003. Submit the application to: Technical Information Management—PA#03007, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgment of Application Receipt

A postcard will be mailed to you by PGO–TIM, notifying you that CDC has received your application.

Deadline

Applications shall be considered as meeting the deadline if they are received before 4 p.m. Eastern Time on the deadline date. Any applicant who sends their application by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will, upon receipt of proper documentation, consider the application as having been received by the deadline.

Any application that does not meet the above criteria will not be eligible for competition, and will be discarded. The applicant will be notified of their failure to meet submission requirements.

H. Evaluation Criteria

Application

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goal stated in the purpose section of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation.

An independent review group appointed by CDC will evaluate each application against the following criteria:

1. Need (25 points)

The announcement is focused on the elimination of childhood lead poisoning as a major public health problem. Therefore, the assessment of need within the applicant's jurisdiction should include focus on communities and populations where there is significant evidence of high numbers of children under six years old who are at

high risk for lead poisoning. The applicant should describe the extent of the problem in the highest risk areas as determined by evidence. The evidence could include surveillance data for calendar years 1995–2000, detailing the number of children 0–36 months and 37–72 months with confirmed blood lead levels greater than or equal to 10 micrograms per deciliter (ug/dl) (using the CSTE definition of confirmed cases; see Appendix II.) The applicant may also consider other sources such as Appendices III and IV of this announcement (Estimated Number of children with Elevated Blood Lead Levels (EBLL) by City and State, respectively), Medicaid data, and housing-related data to support their description of need.

2. Capacity To Eliminate Childhood Lead Poisoning as a Public Health Problem (20 points)

• Provide evidence that the applicant has published and implemented a jurisdiction-wide screening plan that targets screening resources to children at highest risk. A copy of the plan should be included with the application. Or, describe plans to implement a screening plan in the first year of the proposed project period.

• The implementation, or planned implementation, of regulations within the state or jurisdiction requiring the reporting of all blood lead results for children under 72 months of age.

• The extent to which the applicant describes their jurisdictional childhood blood lead surveillance system in the following areas:

—Case management and program monitoring capabilities.
—The ability to determine screening and EBLL rates among specific high-risk populations, particularly Medicaid eligible children.
—The percentage of laboratory blood lead test results reported electronically to the state and/or local health department; and plans to increase the percentage of lab tests electronically imported to the surveillance database.
—Current or planned use of electronic transfer of data from laboratories, WIC, immunizations, birth certificates, and between local and state health departments.
—The ability to identify and assure reporting from private labs and portable blood lead analyzers.
—Plans for data analysis and dissemination of findings, as well as an evaluation of the surveillance system using CDC guidelines.

• Extent to which the applicant demonstrates use of surveillance data to target lead poisoning prevention activities (*e.g.*, screening, environmental investigations, lead hazard reduction, primary prevention, and implementation of protective policies) to the populations at highest risk in their jurisdiction.

• Extent to which strategic partnerships, programs, and activities within the jurisdiction have been implemented to eliminate childhood lead poisoning from the community.

• Extent to which applicant has committed their resources (personnel and financial) to the elimination of childhood lead poisoning.

3. Goals and Objectives (20 points)

• Extent to which the goals relate to the project purpose of childhood lead poisoning elimination, screening, surveillance, primary prevention, case-management, strategic community partnerships, and activities coordinated with agencies involved in lead hazard reduction activities and policies.

• Objectives must be time-phased, achievable, measurable, and must be provided for the first budget year.

• The submission of a clearly written work plan that includes project goals; supporting first year objectives that are relevant, specific, measurable, achievable, and time-phased; activities leading to the completion of objectives; a timetable for completing the proposed activities; identification of the program staff responsible for accomplishing each objective; and process evaluation measures for each proposed objective.

• The inclusion of a tentative work plan and timetable for the remaining years of the proposed project.

4. Jurisdiction-Wide Planning and Collaboration (15 points)

• Applicant's ability to involve strategic partners in the publication and implementation of a targeted screening plan, the and implementation of strategies to eliminate childhood lead poisoning.

• Extent to which surveillance and program data are utilized to produce jurisdiction-wide screening recommendations, with specific attention given to the Medicaid population, as required in the Children's Health Act of 2000.

• Demonstrated strategic partnerships through letters of support, memoranda of understanding, contracts, or other documented evidence of relationships. Examples of key partners include Medicaid agencies, child health-care providers and provider groups, managed-care organizations, insurers, community-based organizations, housing agencies (especially HUD funded lead hazard reduction programs), and banking, real estate, and property-owner interests.

5. Program Evaluation (15 points)

• Description of a systematic assessment of the operations and outcomes of the program as a means of contributing to the elimination of childhood lead poisoning.

• Effective strategies and approaches to monitor and improve the quality, effectiveness, and efficiency of the program.

• Description of how evaluation findings will be used to assess changes in public policy and measure the program's effectiveness of strategic partnering activities.

• Description of how the program will document progress made in childhood lead poisoning prevention.

6. Project Management and Staff (5 points)

• Documentation of the ability to develop and carry out activities described as recipient activities in the program requirements section of this announcement. This should include a description of the proposed health department staff roles, their specific responsibilities, and their level of effort and time.

• Inclusion of assurances that vacant positions will be filled within a reasonable time after receiving funding.

• Inclusion of a plan to provide training and technical assistance to health department personnel and consultation to strategic partners.

7. Budget Justification (reviewed, not scored)

The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of funds. The applicant should include costs for up to two people to travel to Atlanta, GA (three-overnight stays), to attend a Program Partners' meeting in 2003, and for one person to travel to Atlanta, GA (three-overnight stays), to attend the 6th National Environmental Health Conference December 3–5, 2003.

8. Performance Goals (reviewed, not scored)

The extent to which the application is aligned with the NCEH focus of environmental health, specifically, helping states reduce the burden of lead poisoning in children.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. Quarterly data progress reports. These quarterly reports are required by the Office of Management and Budget (OMB) authorizing legislation (OMB Form 0920–0282.) The reports are due 30 days after the end of each quarter.

2. An interim progress narrative report, due no less than 90 days before the end of the budget period. This progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Progress on Current Budget Period Objectives and Activities.

b. Current Budget Period Financial Progress.

c. New Budget Period Proposed Program Objectives and Activities.

d. Detailed Line-Item Budget and Justification.

3. Calendar-year surveillance data, submitted annually in the approved OMB format, no later than April 30. In addition, a written surveillance summary must be disseminated to state and local public health officials, policy makers, the CDC project officer, and others.

4. Financial Status Reports, due within 90 days of the end of the budget period.

5. Final financial reports and performance reports, due within 90 days after the end of the project period.

6. Projects that involve the collection of information from 10 or more individuals, and are funded by a cooperative agreement will be subject to review by OMB under the Paperwork Reduction Act. Data collection initiated under this cooperative agreement program has been approved by OMB under OMB number 0920–0337, ''National Childhood Blood Lead Surveillance System'', Expiration Date: 6/30/2004.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Additional Requirements

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the program announcement as posted on the CDC Web site.

AR–9, Paperwork Reduction Act Requirements
AR–10, Smoke-Free Workplace Requirements
AR–11, Healthy People 2010
AR–12, Lobbying Restrictions
AR–21, Small, Minority & Women-Owned Businesses

Executive Order 12372 does not apply to this program.

J. Where To Obtain Additional Information

Two telephone conference calls for application technical assistance will be held during the application period. For further information, please contact Rob Henry at (770) 488–4024. This, and other CDC announcements, necessary applications, and associated forms can be found on the CDC home page Internet address: *http://www.cdc.gov.* Click on ''Funding'', then ''Grants and Cooperative Agreements.''

For general questions regarding this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2700.

For business management and budget assistance, contact: Mildred Garner, Grants Management Officer, CDC Procurement and Grants Office, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2745, E-mail address: *mgarner@cdc.gov.*

For business management and budget assistance in the territories, contact: Charlotte Flitcraft, Grants Management Officer, CDC Procurement and Grants Office, 2020 Brandywine Rd., Room 3000, Atlanta, GA 30319, Telephone: 770–488–2632, E-mail address: *caf5@cdc.gov.*

For program technical assistance, contact: Rob Henry, Acting Team Leader, Program Services Section, Lead Poisoning Prevention Branch, Centers for Disease Control and Prevention, 1600 Clifton Rd, NE, MS E–25, Atlanta, GA 30333, Telephone: (770) 488–4024, E-mail address: *rhenry@cdc.gov.*

Dated: December 31, 2002.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–1434 Filed 1–22–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03N–0009]

Agency Information Collection Activities; Proposed Collection; Comment Request; Application for Exemption From Federal Preemption of State and Local Medical Device Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on FDA's requirements for State and local governments' applications for exemption from preemption for medical device requirements.

DATES: Submit written or electronic comments on the collection of information by March 24, 2003.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or

provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Application for Exemption From Federal Preemption of State and Local Medical Device Requirements—21 CFR Part 808 (OMB Control No. 0910–0129)—Extension

Section 521(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360k(a)) provides that no State or local government may establish, or continue in effect, any requirement with respect to a medical device that is different from, or in addition to, any Federal requirement applicable to the device under the act. Under section 521(b) of the act, following receipt of a written application from the State or local government involved, FDA may exempt from preemption a requirement that is more stringent than the Federal requirement, or that is necessitated by compelling local conditions and compliance with the requirement would not cause the device to be in violation of any portion of any requirement under the act. Exemptions are granted by regulation issued after notice and opportunity for an oral hearing.

The regulations in 21 CFR 808.20 require a State or local government that is seeking an exemption from preemption to submit an application to FDA. The application must include a copy of the State or local requirement, as well as information about its interpretation and application, and a statement as to why the applicant believes that the requirement qualifies for exemption from preemption under the act. FDA will use the information in the application to determine whether the requirement meets the criteria for exemption in the act and whether granting an exemption would be in the interest of the public health.

In addition, 21 CFR 808.25 provides that an interested person may request a hearing on an application by submitting a letter to FDA following the publication by FDA of a proposed response to the application.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
808.20	3	1	3	100	300
808.25	3	1	3	10	30
TOTAL					330

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA based its estimates of the number of submissions expected in the future contained in table 1 of this document on the number of submissions submitted in the last 3 years and on the number of inquiries received indicating that applications would be submitted in the next year. FDA based its estimates of the time required to prepare submissions on discussions with those who have prepared submissions in the last 3 years.

Dated: January 14, 2003.

Margaret M. Dotzel,

Assistant Commissioner for Policy.

[FR Doc. 03–1435 Filed 1–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0400]

Agency Information Collection Activities; Announcement of OMB Approval; Regulations Requiring Manufacturers to Assess the Safety and Effectiveness of New Drugs and Biological Products in Pediatric Patients

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Regulations Requiring Manufacturers to Assess the Safety and Effectiveness of New Drugs and Biological Products in Pediatric Patients'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 13, 2002 (67 FR 52726), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0392. The approval expires on October 31, 2005. A copy of the supporting statement for this information collection is available on

the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: January 14, 2003.

Margaret M. Dotzel,

Assistant Commissioner for Policy.

[FR Doc. 03–1401 Filed 1–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0393]

Agency Information Collection Activities; Announcement of OMB Approval; Prescription Drug Product Labeling; Medication Guide Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Prescription Drug Product Labeling; Medication Guide Requirements'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 14, 2001 (66 FR 64840), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0393. The approval expires on March 31, 2005. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: January 14, 2003.

Margaret M. Dotzel,

Assistant Commissioner for Policy.

[FR Doc. 03–1402 Filed 1–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1367]

Agency Information Collection Activities; Announcement of OMB Approval; Postmarket Surveillance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Postmarket Surveillance'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 29, 2000 (65 FR 52376 at 52386), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0449. The approval expires on November 30, 2003. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: January 14, 2003.

Margaret M. Dotzel,

Assistant Commissioner for Policy.

[FR Doc. 03–1403 Filed 1–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0268]

Agency Information Collection Activities; Announcement of OMB Approval; Cosmetic Product Voluntary Reporting Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Cosmetic Product Voluntary Reporting Program'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 9, 2002 (67 FR 62977), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0030. The approval expires on November 30, 2005. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: January 14, 2003.

Margaret M. Dotzel,

Assistant Commissioner for Policy.

[FR Doc. 03–1405 Filed 1–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0418]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Adverse Experience Reporting for Licensed Biological Products; and General Records

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by February 24, 2003.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Adverse Experience Reporting for Licensed Biological Products (OMB Control Number 0910–0308)—Extension

Under the Public Health Service Act (42 U.S.C. 262), FDA is required to ensure the marketing of only those biological products that are safe and effective. FDA must, therefore, be informed of all adverse experiences occasioned by the use of licensed biological products. FDA issued the adverse experience reporting (AER) requirements in part 600 (21 CFR part 600) to enable FDA to take actions necessary for the protection of the public health in response to reports of adverse experiences related to licensed biological products. The primary purpose of FDA's AER system is to flag potentially serious safety problems with licensed biological products, focusing especially on newly licensed products. Although premarket testing discloses a general safety profile of a new drug's comparatively common adverse effects, the larger and more diverse patient populations exposed to the licensed biological product provides the opportunity to collect information on rare, latent, and long-term effects. Reports are obtained from a variety of sources, including patients, physicians, foreign regulatory agencies, and clinical investigators. Information derived from the AER system contributes directly to increased public health protection because such information enables FDA to recommend important changes to the product's labeling (such as adding a new warning), to initiate removal of a biological product from the market when necessary, and to assure the manufacturer has taken adequate corrective action if necessary.

The regulation in § 600.80(c)(1) requires the licensed manufacturer to report each adverse experience that is both serious and unexpected, regardless of source, as soon as possible, but in any case, within 15 working days of initial receipt of the information. Section 600.80(e) requires licensed manufacturers to submit a 15-day alert report obtained from a postmarketing clinical study only if there is a reasonable possibility that the product caused the adverse experience. Section 600.80(c)(2) requires the licensed manufacturer to report each adverse experience not reported under paragraph (c)(1) at quarterly intervals, for 3 years from the date of issuance of the product license, and then at annual intervals. The majority of the periodic reports will be submitted annually since a large percentage of the current licensed biological products have been licensed longer than 3 years. Section 600.80(i) requires the licensed manufacturer to maintain for a period of 10 years records of all adverse experiences known to the licensed manufacturer, including raw data and any correspondence relating to the adverse experiences. Section 600.81 requires the licensed manufacturer to submit information about the quantity of the product distributed under the product license, including the quantity distributed to distributors at an interval of every 6 months. The semiannual distribution report informs FDA of the quantity, the lot number, and the dosage of different products.

Section 600.90 requires a licensed manufacturer to submit a waiver request with supporting documentation when asking for waiving the requirement that applies to them under §§ 600.80 and 600.81. Manufacturers of biological products for human use must keep records of each step in the manufacture and distribution of products including recalls of the product. The recordkeeping requirements serve preventative and remedial purposes. These requirements establish accountability and traceability in the manufacture and distribution of products, and enable FDA to perform meaningful inspections.

Section 600.12 requires that all records of each step in the manufacture and distribution of a product be made and retained for no less than 5 years after the records of manufacture have been completed or 6 months after the latest expiration date for the individual product, whichever represents a later date. In addition, records of sterilization of equipment and supplies, animal necropsy records, and records in cases of divided manufacturing of a product are required to be maintained. Section 600.12(b)(2) requires complete records to be maintained pertaining to the recall from distribution of any product. Respondents to this collection of information are manufacturers of biological products. Under table 1 of this document, the number of respondents is based on the estimated number of manufacturers that submitted the required information to FDA in the years 2000 and 2001. Based on information obtained from the Center for Biologics Evaluation and Research's (CBER's) database system, there were approximately 95 licensed manufacturers. This number excludes those manufacturers who produce blood and blood components and in vitro diagnostic licensed products because they are specifically exempt from the regulations. However, not all manufacturers may have any submissions in a given year and some may have multiple submissions. The total annual responses are based on the estimated number of submissions received annually by FDA. There were an estimated 13,938 15-day alert reports, 10,102 periodic reports, and 339 distribution reports submitted to FDA. The number of 15-day alert reports for postmarketing studies as stated in § 600.80(e) was minimal and is included in the total number of 15-day alert reports. FDA received an average of 12 waiver requests under § 600.90, of which 11 were approved for exemption of the AER requirements. The hours per response are based on FDA's experience. The burden hours required to complete the MedWatch Form for § 600.80(c)(1), (e), and (f) are reported under OMB control number 0910–0291.

In the **Federal Register** of October 4, 2002 (67 FR 62249), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
600.80(c)(1) and (e)	95	146.72	13,938	1	13,938
600.80(c)(2)	95	106.34	10,102	28	282,856
600.81	95	3.57	339	1	339
600.90	12	1	12	1	12
Total					297,145

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Under table 2 of this document, the number of respondents is based on the number of manufacturers subject to those regulations. Based on information obtained from CBER's database system, there were approximately 329 licensed manufacturers of biological products. However, the number of recordkeepers listed for § 600.12(a) through (e), excluding paragraph (b)(2), is estimated to be 111. This number excludes manufacturers of blood and blood components because their burden hours for recordkeeping have been reported under § 606.160 in OMB control number 0910–0116. The total annual records is based on the annual average of lots released (6,747), number of recalls made (1,646) and total number of AER reports received (24,040) in the years 2000 and 2001. The hours per record are based on FDA's experience. FDA estimates the burden of this recordkeeping as follows:

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
600.12	111	60.78	6,747	32	215,904
600.12(b)(2)	329	5.00	1,646	24	39,504
600.80(i)	95	253.05	24,040	1	24,040
Total					279,448

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: January 14, 2003.

Margaret M. Dotzel,

Assistant Commissioner for Policy.

[FR Doc. 03–1406 Filed 1–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1529]

Elaine Yee-Ling Lai; Debarment Order; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of November 13, 2002 (67 FR 68877). The document announced the issuance of an order under the Federal Food, Drug, and Cosmetic Act debarring Ms. Elaine Yee-Ling Lai for 5 years from providing services in any capacity to a person that has an approved or pending drug product application. The document was published with an inadvertent error. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Joyce Strong, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

SUPPLEMENTARY INFORMATION: In FR Doc. 02–28715, appearing on page 68877 in the **Federal Register** of Wednesday, November 13, 2002, the following correction is made:

1. On page 68877, in the third column, under section II, in the fourth line ''(21 CFR 5.99)'' is corrected to read ''(21 CFR 5.34)''.

Dated: January 14, 2003.

Margaret M. Dotzel,

Assistant Commissioner for Policy.

[FR Doc. 03–1404 Filed 1–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4814–N–01]

Notice of Proposed Information Collection: Comment Request Annual Progress Report (APR) for Competitive Homeless Assistance Programs

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 24, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB

Control Number and should be sent to: Shelia Jones, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: [John Garrity (202) 708–4300 (this is not a toll-free number) for copies of the proposed forms and other available documents:]

SUPPLEMENTARY INFORMATION: The Department is submitting the Proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy for the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Annual Progress Report for Competitive Homeless Assistance Programs (APR).

OMB Control Number, if applicable: 2506–0145.

Description of the need for the information and proposed use: The APR provides information to HUD necessary for program monitoring and evaluation.

Agency form numbers, if applicable: HUD–40118.

Members of affected public: Grantees that have received HUD funding from 1987 to the present.

Estimated of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Activity	Number of respondents	Frequency of response	Response hours	Burden hours
Record-keeping	4,000	1 annually	40	160,000
Report preparation	4,000	1 annually	8	32,000
				192,000

Status of the proposed information collection: Information is currently being collected.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 16, 2003.

Roy A. Bernardi,

Assistant Secretary for Community, Planning and Development.

[FR Doc. 03–1411 Filed 1–22–03; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4820–N–03]

Notice of Proposed Information Collection: Comment Request; Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark-to-Market)

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 24, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410 or *Wayne_Eddins@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Barbara Chiapella, Deputy Director, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, 1280 Maryland Avenue, SW., Suite 4000, Washington, DC 20410; e-mail *Barbara_Chiapella@hud.gov*, telephone (202) 708–0001 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark-to-Market).

OMB Control Number, if applicable: 2502–0533.

Description of the need for the information and proposed use: The Mark-to-Market Program is authorized under the Multifamily Assisted Housing Reform and Affordability Act of 1997. The information collection is required and will be used to determine the eligibility of FHA-insured multifamily properties for participation in the Mark-to-Market program and the terms on which participation should occur. The program reduces Section 8 rents to market and restructures debt as necessary.

Agency form numbers, if applicable: None.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total

number of hours needed to prepare the information collection is 125,947; the number of respondents is 438 generating approximately 438 annual responses; the frequency of response is on occasion and annually; and the estimated time needed to prepare each response varies from 99 hours to 320 hours.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: January 16, 2003.

Sean G. Cassidy,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 03–1412 Filed 1–22–03; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0061 and 1029–0110

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval to continue the collections of information under 30 CFR Part 795, Permanent Regulatory Program—Small Operator Assistance Program (SOAP), and two technical training program course effectiveness evaluation forms. These information collection activities were previously approved by the Office of Management and Budget (OMB), and assigned clearance numbers 1029–0061 and –0110, respectively.

DATES: Comments on the proposed information collection activities must be received by March 24, 2003, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 210–SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtreleas@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [*see* 5 CFR 1320.8(d)]. This notice identifies information collections that OSM will be submitting to OMB for renewed approval. These collections are contained in (1) 30 CFR Part 795, Permanent Regulatory Program—Small Operator Assistance Program (1029–0061); and (2) OSM's Technical Training Program Course Effectiveness Evaluations (1029–0110). OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

The following information is provided for each information collection: (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: 30 CFR Part 795—Permanent Regulatory Program—Small Operator Assistance Program.

OMB Control Number: 1029–0061.

Summary: This information collection requirement is needed to provide assistance to qualified small mine operators under section 507(c) of Public Law 95–87. The information requested will provide the regulatory authority with data to determine the eligibility of the applicant and the capability and expertise of laboratories to perform required tasks.

Bureau Form Number: FS–6.

Frequency of Collection: Once per application.

Description of Respondents: Small operators, laboratories, and State regulatory authorities.

Total Annual Responses: 156.

Total Annual Burden Hours: 7,373 hours.

Title: Technical Training Program Course Effectiveness Evaluation.

OMB Control Number: 1029–0110.

Summary: Executive Order 12862 requires agencies to survey customers to determine the kind of quality of services they want and their level of satisfaction with existing services. The information supplied by this evaluation will determine customer satisfaction with OSM's training program and identify needs of respondents.

Bureau Form Number: None.

Frequency of Collection: On Occasion.

Description of Respondents: State regulatory authority and Tribal employees and their supervisors.

Total Annual Responses: 315.

Total Annual Burden Hours: 53 hours.

Dated: January 15, 2003.

Sarah E. Donnelly,

Acting Chief, Division of Regulatory Support.

[FR Doc. 03–1398 Filed 1–22–03; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1022 (Preliminary)]

Refined Brown Aluminum Oxide From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of refined brown aluminum oxide, provided for in subheading 2818.10.20 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Commencement of Final Phase Investigation

Pursuant to § 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in § 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the

[1] The record is defined in § 207.2(f) of the Commission's rules of practice and procedure (19 CFR 207.2(f)).

investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations.

The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Background

On November 20, 2002, a petition was filed with the Commission and Commerce by Washington Mills Company, Inc., North Grafton, MA,[2] alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of refined brown aluminum oxide from China. Accordingly, effective November 20, 2002, the Commission instituted antidumping duty investigation No. 731–TA–1022 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of November 29, 2002 (67 FR 71195). The conference was held in Washington, DC, on December 11, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on January 6, 2003. The views of the Commission are contained in USITC Publication 3572 (January 2003), entitled Refined Brown Aluminum Oxide from China: Investigation No. 731–TA–1022 (Preliminary).

Issued: January 17, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–1447 Filed 1–22–03; 8:45 am]

BILLING CODE 7020–02–P

[2] On November 27, 2002, the petition was amended to include two additional petitioners, C–E Minerals, King of Prussia, PA, and Treibacher Schleifmittel Corporation, Niagara Falls, NY.

DEPARTMENT OF JUSTICE

Antitrust Division

Public Comments and Response on Proposed Final Judgment in United States of America v. The MathWorks, Inc. and Wind River Systems, Inc.

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the comments received on the proposed Final Judgments on *United States of America* v. *The MathWorks, Inc. and Wind River Systems, Inc.,* Civil Action No. 02–888–A, filed in the United States district court for the Eastern District of Virginia, together with the United States' response to the comments.

Copies of the comment and response are available for inspection at Room 200 of the Department of Justice, Antitrust Division, 325 Seventh Street, NW., Washington, DC 20530, telephone (202) 514–2481, and at the Office of the Clerk of the United States District Court for the Eastern District of Virginia, Albert V. Bryan United States Courthouse, 401 Courthouse Square, Alexandria, VA 22314. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations.

United States' Response to Public Comments

Pursuant to Section 5(d) of the Clayton Act, as amended by Section 2 of the Antitrust Procedures and Penalties Act (codified at 15 U.S.C. 16(b)–(h) (the ''Tunney Act'')), the United States responds to public comments received regarding the proposed Final Judgments submitted for entry in this civil antitrust proceeding.

I. Background

On June 21, 2002, the United States filed a civil antitrust Complaint alleging that The MathWorks, Inc., (''The MathWorks'') and Wind River Systems, Inc. (''Wind River''), head-to-head competitors in the sale of dynamic control system design software products, restrained competition in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The Complaint alleged that, on February 16, 2001, The MathWorks and Wind River entered into a number of agreements (hereinafter, collectively, the ''MATRIXx Agreement'') pursuant to which, *inter alia,* The MathWorks obtained the executive worldwide right to price and sell Wind River's MATRIXx tools for a period of two and one half years. As a result of the MATRIXx Agreement, actual competition between Wind River's MATRIXx toolset and The MathWorks' Simulink toolset has been eliminated.

In April 2000, Wind River acquired Integrated Systems, Inc. (''ISI''). At the time, ISI was a well regarded vendor of software, tools, and engineering services for the embedded systems market.[1] Its embedded real-time operating system, deployed in more than 38 million devices worldwide as of 2000, was suppled to telecom/datacom, consumer electronics, automotive, aerospace, and emerging Internet appliance customers. As part of its software portfolio it produced the MATRIXx family of software products, which are standalone products designed to automate the analysis, modeling, generation of code for, and simulation of, complex control systems. Although ISI had spent considerable resources developing MATRIXx since the mid-1980s, its primary business continued to revolve around the embedded systems market.

Wind River, itself a significant vendor of software for embedded systems, pursued the acquisition of ISI, in large part, to obtain a skilled pool of embedded system software developers that it hoped would shorten the time it takes to reach the market of critical new embedded system products. Wind River soon came to view MATRIXx as a struggling product line within ISI with small revenue and no growth potential. More importantly, the MATRIXx market was neither within Wind River's core competency nor its central strategic focus for the future. Thus, Wind River decided not to devote any of its resources to the continued development and sale of MATRIXx.

Shortly after Wind River's acquisition of ISI, The MathWorks approached Wind River and began vigorously negotiating to acquire the MATRIXx assets. On February 16, 2001, The MathWorks and Wind River entered into the MATRIXx Agreement under which Wind River granted The MathWorks exclusive distribution and license rights to the MATRIXx toolset and the MATRIXx intellectual property (including the right to incorporate MATRIXx source code into The MathWorks products) during a thirty-month license period beginning on February 16, 2001. Following the expiration of the thirty-month license period, The MathWorks would have the option to acquire MATRIXx.

Under the MATRIXx Agreement, The MathWorks was required to provide two years of customer support (ending in February 2003) for existing MATRIXx users.[2] While Wind River agreed to

[1] Embedded systems are specialized computing systems used to control devices such as handheld computers, appliances or cars. These systems are typically invisible to the end-user, but enable operation of the devices.

[2] Wind River retained rights to the MATRIXx intellectual property during the license period in

Continued

continue fulfilling its existing customer support obligations, as well as to provide ''critical'' bug fixes during the license period, the MATRIXx Agreement provided that Wind River would not produce new versions of MATRIXx with feature enhancements. In fact, The MathWorks announced at the time it entered into the MATRIXx Agreement that there would be no further development of the MATRIXx products. The MathWorks and Wind River also agreed on the pricing of Simulink, The MathWorks' dynamic control system software product that competed head-to-head with MATRIXx, when purchased by MATRIXx customers. The companies specifically agreed that The MathWorks would give customers with current MATRIXx licenses, that switched to The MathWorks' suite of products, a discount amounting to 50% off the list price of The MathWorks' products for those that switched in the first year of the MATRIXx Agreement and 25% off for those that switched in the second year of the MATRIXx Agreement.

In return, The MathWorks agreed to make payments to Wind River totaling $11,500,000 over a three-year period on a set schedule, which were not contingent on the volume of MATRIXx products The MathWorks sold. Further, Wind River granted The MathWorks an option to purchase MATRIXx and certain MATRIXx intellectual property (*e.g.,* the source code, customer lists, trademarks and copyrights) twenty-eight months after closing for an additional sum of $2,000,000. Finally, the MATRIXx Agreement assigned certain patent rights to The MathWorks for $500,000.

On the same date that the United States filed its Complaint against The MathWorks and Wind River, the United States filed a Stipulation and proposed Final Judgment with Wind River that was designed to obtain the divestiture of the MATRIXx assets to a competitively viable third party. Although the nominal owner of the MATRIXx assets, Wind River's consent alone was insufficient to effectuate fully the relief sought by the United States in the Complaint because The MathWorks had previously acquired significant rights in the MATRIXx assets under the MATRIXx Agreement. The lawsuit therefore continued against The MathWorks. On August 15, 2002, the United States and The MathWorks filed a Stipulation and proposed Final Judgment that, in conjunction with the proposed Final Judgment agreed to by Wind River, would lead to either the prompt and certain divestiture of the MATRIXx assets to a competitively viable third party or the dismissal of the Complaint in this action.

The proposed Final Judgment agreed to by The MathWorks provides a framework detailing the manner and process pursuant to which a court-appointed Trustee would seek to sell the MATRIXx assets to a competitively viable third party. Among other things, this framework specifically outlines the rights and responsibilities of the United States and The MathWorks, addresses the period of time in which a definitive sales and licensing agreement must be consummated, and sets a minimum price at which the MATRIXx assets may be sold.

The Court may enter the proposed Final Judgments against Wind River and The MathWorks following compliance with the Tunney Act.[3] The Tunney Act, among other things, gives the public a 60-day period to submit comments about the proposed Final Judgments. The 60-day comment began on October 21, 2002, when the proposed Final Judgments and the Competitive Impact Statement (''CIS'') were published in the **Federal Register** (67 FR 64657 (2002)), and expired on December 20, 2002. During that period, two comments were received.

II. Response to Public Comments

On November 18, 2002, the United States received a comment regarding The MathWorks' proposed Final Judgment in this matter from Sudarshan Bhat addressing a single provision of The MathWorks' proposed Final Judgment. A true and correct copy of Mr. Bhat's comment, with confidential information redacted, is attached as Exhibit A. On December 20, 2002, the United States received a comment regarding the proposed Final Judgments in this matter from The Center for the Advancement of Capitalism (''CAC'') which purports to address the propriety of the proposed Final Judgments *en toto.* A true and correct copy of the CAC's comment is attached as Exhibit B. Each of these comments is addressed individually below.

A. Bhat Comment

Mr. Bhat complains that the minimum sale price of $2 million plus the costs and expenses of the Trustee for the MATRIXx assets, as required by Section IV(L) of The MathWork's proposed Final Judgment, ''makes no financial sense without additional contingencies.'' *Bhat Comment* at 1. He explains that immediately prior to The MathWorks acquisition of the MATRIXx assets, MATRIXx enjoyed annual revenue of $15–$16 million. Since The MathWorks acquired the MATRIXx assets however, MATRIXx revenue has fallen and ''is likely to reduce much further without the proper measures to restore competitiveness in the dynamics and control tools marketplace.'' *Id.* Given this, Mr. Bhat concludes that ''[t]he 2 million dollar purchase price is too much to risk in the current market conditions.'' *Id.* In essence, Mr. Bhat concludes that a divestiture of the MATRIXx assets will fail because the minimum sale price is not justified given the current level of annual revenue generated by MATRIXx.

Mr. Bhat insists that ''true competition can only be restored when marketing, customer support, development, sales and annual, revenues for MATRIXx assets are restores to the annual 15–16 million dollar levels immediately prior to Mathworks acquisition of MATRIXx assets.'' *Id.* Therefore, he suggests that the United States ''impose an annual penalty on Mathworks equal to MATRIXx sales revenue shortfall from the 2001 15–16 million dollar levels until the MATRIXx revenues are restores to the 2001 levels or until September 1, 2007, whichever comes first.'' *Id.* at 2. Mr. Bhat believes this annual penalty should ''be used to cover any operating budget shortfall for whoever is best qualified to acquire MATRIXx assets and restore competition to the marketplace.'' *Id.* Finally, Mr. Bhat indicates that his intention to bid for the MATRIXx assets is conditioned on the adoption of his suggested additions to the proposed Final Judgment.

The United States disagrees with the conclusions asserted by Mr. Bhat in his comment. In light of the fact that the MATRIXx assets have been successfully sold, it is unnecessary to amend the proposed Final Judgment in the manner suggested by Mr. Bhat.[4] On January 14, 2003, SoundView Technology

order to provide support service to two International Space Station customers.

[3] The Competitive Impact Statement (''CIS'') sets out the standard to be applied by the Court in determining whether entry of the proposed Final Judgment is in the public interest. CIS at 20–23.

[4] Nor does the United States believe it is appropriate to impose a ''penalty'' on The MathWorks equal to MATRIXx revenue shortfalls from 2001 levels. *Bhat Comment* at 2. This is a Government civil action for injunctive relief, and thus monetary damages are not available in this case. *See* 15 U.S.C. 4 (authorizing the United States ''to institute proceedings in equity to prevent and restrain such violations''). Moreover, the goals of the remedy in this case are to enjoin the unlawful conduct and restore competitive conditions in the market affected by The MathWorks' conduct. *See Nat'l Soc'y of Prof'l Eng'rs* v. *United States,* 435 U.S. 679, 697 (1978); *United States* v. *E.I. du Pont de Nemours & Co.,* 366 U.S. 316, 326 (1961).

Corporation (''SoundView''), as the court-appointed Trustee in this matter pursuant to its obligations under Section IV(I) of the proposed Final Judgment, reported to the United States that National Instruments Corporation acquired the MATRIXx assets on January 10, 2003, pursuant to a definitive sales and licensing agreement reached within the framework outlined in the proposed Final Judgment. Pursuant to Section IV(M)(1) of the proposed Final Judgment, the United States has concluded that National Instruments Corporation intends to invest in and develop the MATRIXx product line and has the potential to be a viable competitor in the sale of dynamic control system design software.

B. CAC Comment

CAC is a non-profit organization with the mission or providing analysis based on Ayn Rand's philosophy of objectivism.[5] CAC insists that the United States should withdraw the proposed Final Judgments and dismiss the Complaint in this matter or that the Court should reject entry of the proposed Final Judgments under the Tunney Act. *CAC Comment* at 2. CAC concedes, however, that its philosophical opposition to the antitrust laws is ''blatantly obvious.'' *Id.* at 3. This opposition animates every aspect of CAC's comment. CAC claims that ''[t]his'' case reveals both the fundamental defects of both the antitrust laws and the strategy employed by the Government in their enforcement.'' *Id.* CAC argues that ''[f]ree competition cannot be enforced by government flat'' and that the DOJ ''relies on static rules that fail to account for the complexity of business and yet seek to enforce an unjust and unworkable egalitarianism.'' *Id.* Further, CAC claims that the ''DOJ can not speak for the 'public interest,' because no such intest has ever existed.'' *Id.*

CAC, in essence, challenges the constitutionality of the Sherman Act and advocates for a form of laissez-faire capitalism unregulated by the Government. The United States disagrees with CAC's position. The Supreme Court has, on numerous occasions, upheld the constitutionality of the Sherman Act and the prohibition in Section 1 of the Act against any contract, combination or conspiracy that ''unreasonably'' deprives consumers of the benefits of competition or that would otherwise result in higher prices or inferior products and services. *See Standard Oil Co.* v. *United States,* 221 U.S. 1, 50, 58 & 68–70 (1911); *see also United States* v. *Joint Traffic Ass'n,* 171 U.S. 505, 570–73 (1898). In any event, challenging the constitutionality of the Sherman Act is far beyond the scope of this Tunney Act proceeding. *See United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1459 (D.C. Cir. 1995) (Court's role under the Tunney Act is limited to reviewing the remedy in relationship to the violations that the United States alleges in its Complaint.).

CAC also argues that ''[n]othing in the proposed judgment benefits producers, consumers, or the foundations of the free market, unless it is held that capitalism is advanced by turning producers into serfs.'' *CAC Comment* at 3. CAC believes that ''while the customer's short-term costs might increase as a result of the MATRIXx acquisition, in the long term, competition would benefit from Wind River's decision to shed an unprofitable and stagnant product line.'' *Id.* For CAC argues, ''[i]n a free market, the more efficient allocation of resources is often fostered through the natural elimination of unnecessary or redundant competition, as appears to be the case here.'' *Id.* Accordingly, CAC asserts that ''[i]n the absence of this judgment, MATRIXx would be given the timely death the marketplace has condemned it to.'' *Id.* at 4. CAC's arguments suggest a superficial understanding of the proposed Final Judgments and the manner in which they are intended to address the Complaint in this matter.

During the United States' investigation in this matter, the Defendants argued that the MATRIXx assets had no economic value in the marketplace and that no competitively viable third party would be interested in purchasing the MATRIXx assets for any significant amount of money. Taking Defendants' arguments, along with customer concerns, into account, the United States agreed to a proposed settlement that would both test Defendants' assertions as to the MATRIXx assets' market value and maximize the possibility of restoring in a timely manner competition lost as a result of the illegal conduct. At the time, the United States firmly believed that one or more competitively viable purchasers existed and that an independent agent would succeed in finding a buyer. Pursuant to Section IV(O) of The MathWorks' proposed Final Judgment, however, the United States agreed that if no alternative viable purchaser emerged, the United States would dismiss the Complaint in this action. As noted above, SoundView, the court-appointed Trustee charged with attempting to sell the MATRIXx assets, has informed the United States that it has successfully sold the MATRIXx assets pursuant to a definitive sales and licensing agreement that meets the requirements of The MathWorks' proposed Final Judgment. The proposed Final Judgment in this matter strikes an appropriate balance between the public interest of prohibiting conduct the effect of which is to substantially lessen competition, and the desire for the marketplace to decide the economic and competitive value of goods and services based on their relative merits.

III. Conclusion

Mr. Bhat urges the United States to amend The MathWorks' proposed Final Judgment in order to make the MATRIXx assets more valuable to prospective purchasers thereby justifying the required minimum sales price. CAC, on the other hand, urges the Court to reject the proposed Final Judgments altogether and dismiss the Complaint with prejudice. The United States, however, has concluded that the proposed Final Judgments reasonably and appropriately addresses the harm alleged in the Complaint. Therefore, following publication of this Response to Comments in the **Federal Register** and submission of the United States' Certificate of Compliance with the Tunney Act, the United States intends to request entry of the proposed Final Judgments upon the Court's determination that entry is in the public interest.

Dated: January 15, 2003.

Respectfully submitted,

James J. Tierney,
Patricia A. Brink,
Kenneth W. Gaul,
Jeremy West,
J. Roberto Hizon,
David E. Blake-Thomas,
Patrick O'Shaughnessy,
Trial Attorneys.

U.S. Department of Justice, Antitrust Division, Networks & Technology Section, 600 E Street, NW., Suite 9500, Washington, DC 20530, Tel: 202/307/6200, Fax: 202/616–8544.

Paul J. McNulty,
United States Attorney.

By: Richard Parker,
Assistant United States Attorney, VSB No. 44751, 2100 Jamieson Avenue, Alexandria, VA 22314, Tel: 703/299–3700.

[5] Ayn Rand, a novelist-philosopher, first expressed her philosophy of objectivism in the best-selling novels, *The Fountainhead* (1943) and *Atlas Shrugged* (1957). On the issue of capitalism, she has stated: ''When I say 'capitalis' I mean a pure, uncontrolled, unregulated laissez-faire capitalism with a separation of economics, in the same way and for the same reasons as a separation of state and church.'' ''The Objectivist Ethics'' in *The Virtue of Selfishness* (1964).

Certificate of Service

I certify that on January 15, 2003, a true and correct copy of the United States' Response to Public Comments, related to the proposed Final Judgments in this matter against Defendants and agreed to by Defendants pursuant to the Stipulations and Orders filed with the Court, was served on the following counsel:

Counsel for Wind River Systems, Inc.

Richard L. Rosen,
Arnold & Porter, 555 Twelfth Street, NW., Washington, DC 2004–1206, Fax: 202/942–5999, by U.S. Mail.

Counsel for The Math Works, Inc.

Thane D. Scott,
Palmer & Dodge, LLP, 111 Huntington Avenue, Boston, Massachusetts 02199–7613, Fax: 617/227–4420, by: U.S. Mail.
J. Mark Gidley,
White & Case, LLP, 601 Thirteenth St., NW., Washington, DC 20005–3807, Fax: 202/639–9355, by: U.S. Mail.
James J. Tierney.
November 1, 2002.
To Attn: Reneta Hesse, Chief,
Networks and Technology Litigation Section, Antitrust Division, U.S. Department of Justice, Washington, DC 20530.
Re: MATRIXx Asset Sale contingencies,
Justice Department Settlement with Mathworks, Inc.

Dear Hesse, I believe the 2 million dollar sale price plus the US Department of Justice trustee costs is acceptable if the additional MATRIXx revenue shortfall contingencies mentioned later in this letter are imposed on Mathworks to quickly and effectively restore competitiveness to the dynamics and control tools marketplace.

The MATRIXx assets sale makes no financial sense without additional contingencies. The 2 million dollar purchase price is too much risk in the current market conditions. The risk is due to severely reduced [redacted as confidential] annual MATRIXx revenue under Mathworks that is likely to reduce much further without the proper measures to restore competitiveness in the dynamics and control tools marketplace.

It was Mathworks that blatantly committed anti-trust violation of Section 1 of the Sherman Act. It must be Mathworks that pays for restoring competition in the marketplace. It is just not fair for the MATRIXx customers to be held hostage and pay the price for restoration of credibility to the MATRIXx products.

From a marketing standpoint large legacy aerospace projects (examples are International Space Station and Boeing projects) have too much invested in MATRIXx tools over the last two decades that simply cannot switch to Simulink/RealTime Workshop tools because of prohibitive costs, lack of Ada support and lack of tool maturity. MATRIXx tools SystemBuild and AutoCode has evolved and has been successfully used on large aerospace projects for over 20 years while Simulink and RealTime Workshop have only been around for about 5 years. RealTime Workshop Ada has not even been released.

I believe true competition can only be restored when marketing, customer support, development, sales and annual revenues for MATRIXx assets are restored to the annual 15–16 million dollar levels immediately prior to Mathworks' acquisition of MATRIXx assets. The software development effort for MATRIXx under Wind River for financial year 2001 is estimated at about 2.5 million dollars. The marketing, customer support and sales were rolled into the overall WindRiver budget.

An ISI colleague of mine has already contacted a large number of people who were MATRIXx software developers just prior to Mathworks' acquisition of MATRIXx assets and confirmed that a substantial number of them were willing to join our group or for that matter any group willing to acquire MATRIXx assets and repair the market damage inflicted on the product by Mathworks. Formation of such a workforce would immediately place a demand for MATRIXx operating budgets which I would estimate about 4–5 million dollars annually. Compared to all the potential buyers, some key ex-ISI employees, including myself, are the most qualified to put together the original ISI/WindRiver team of MATRIXx developers and restore competition in the marketplace. And I urge the US Department of Justice to seriously evaluate this issue when choosing a suitable buyer for the MATRIXx assets.

I believe it is imperative that the US Department of Justice impose an annual penalty on Mathworks equal to MATRIXx sales revenue shortfall from the 2001 15–16 million dollar levels until the MATRIXx revenues are restored to the 2001 levels or until September 1, 2007, whichever comes first. These revenues are to be used to cover any operating budget shortfall for whoever is best qualified to acquire MATRIXx assets and restore competition to the marketplace. I also urge that the US Department of Justice require that Mathworks place such funds in escrow because there have been recent complaints by WindRiver about Mathworks not making the most recent installment payment.

In summary when I place a bid for MATRIXx assets, the bid will be contingent upon Mathworks making up for the revenue shortfall until MATRIXx products is restored to the pre-2001 annual revenue levels. I would appreciate the cooperation of the US Department of Justice, its trustee, SoundView Technology Group, and all the parties involved to make this happen and restore competitiveness to the dynamics and control tools marketplace.

Sincerely,
/S/
Sudarshan P. Bhat,
1410 Blackstone Rd, San Marino, CA 91108, 626–292–7479 (home), 626–379–9021 (cell).

Comments of The Center for the Advancement of Capitalism to the Proposed Final Judgment

Pursuant to the Tunney Act [1], The Center for the Advancement of Capitalism submits the following comments in response to the Proposed Final Judgments filed with the Court on June 21 and August 15, 2002.

Introductory Statement

The Center for the Advancement of Capitalism (''CAC'') is a District of Columbia corporation organized in 1998, and exempt from income tax under Section 501(c)(4) of the Internal Revenue Code. CAC's mission is to present to policymakers, the judiciary and the public analyses to assist in the identification and protection of the individual rights of the American people. CAC applies Ayn Rand's philosophy of Objectivism to contemporary public policy issues, and provides empirical studies and theoretical commentaries on the impact of legal and regulatory institutions upon the rights of American citizens.

CAC has no financial interest in the outcome of this case, nor has CAC received any compensation from the defendants in connection with these comments.

Comments

The Proposed Final Judgment (''PFJ'') currently before the Court seeks to undo the impact of the February 2001 agreement between MathWorks and Wind River. MathWorks obtained the exclusive right to distribute Wind River's MATRIXx software, and as a result MathWorks was able to combine

[1] Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h).

two stagnant products lines into a single offering. The United States claims this was illegal, because the loss of MATRIXx constituted a harm to consumers. Wind River customers complained to the United States that once MATRIXx was no longer serviced, they would ''have to begin a costly migration to the MathWorks' Simulink products.'' The United States initiated this case to preclude this from happening. The question now before the Court is whether the PFJ serves the interest. CAC believes that it does not.

This case is part of a federal antitrust effort to micromanage various facets of the private technology sector. In the past year alone, the Department of Justice prosecuted Computer Associates International for their alleged conduct during the consummation of an otherwise lawful merger [2], and the Federal Trade Commission imposed a settlement upon an industry that vehemently denied the need for government intervention.[3]

This matter picks up where those cases left off. Now the United States claims the right to force the sale of a business they know to be unprofitable to a mystery competitor that may not exist. The government wants to ''restore'' competition beyond the level that actually existed prior to the challenged conduct. In doing so, the United States has ignored the economic realities of the marketplace and the technical knowledge of the specific market they seek to regulate. Thus, the PFJ here results not from the United States acting in the public interest, but from the DOJ submitting a specious claim before the Court. For this reason, the United States should withdraw from the PFJ and dismiss its complaint, or in the alternative, the Court should reject entry of the PFJ under the Tunney Act.

At the heart of this case is the independent viability of the MATRIXx product line. Wind River acquired control of MATRIXx when they acquired Integrated Systems, Inc., in April 2000. In its own competitive impact statement, the United States admits that MATRIXx was on the road to decline well before the consummation of the agreement challenged here:

''Wind River, itself a significant vendor of software for embedded systems, pursued the acquisition of ISI, in large part, to obtain a skilled pool of embedded system software developers that it hoped would shorten the time to market for critical new embedded system products. Wind River soon came to view MATRIXx as a struggling product line within ISI with small revenue and no growth potential. More importantly, the MATRIXx market was neither within Wind River's core competency nor central strategic focus or the future. Thus, Wind river decided not to devote any of its resources to the continued development and sale of MATRIXx.'' [4]

The Government never refutes or challenges Wind River's claims with respect to MATRIXx. Instead, the DOJ simply ignores these concerns, and merrily proceeds on the basis of alleged consumer harm. There is no effort to place the challenged conduct in an overall business context, nor does the DOJ consider any evidence that the defendants' agreement benefited competition. Instead, the DOJ relied upon its own prejudiced theories of antitrust, and imposed this proposed judgment to force the defendants' behavior to conform to the Government's expectations. The DOJ thus substituted its own *business judgment* for that of MathWorks and Wind River without any credible arguments or evidence.

By the DOJ's admission, this case was initiated in large part by consumer complaints. Apparently, some MATRIXx users were unhappy at the prospect of having to pay the transitional costs of eventually converting to Simulink. An impartial observer would conclude that while the customers' short-term costs might increase as a result of the MATRIXx acquisition, in the long term, competition would benefit from Wind River's decision to shed an unprofitable and stagnant product line. In the free market, the more efficient allocation of resources is often fostered through the natural elimination of unnecessary or redundant competition, as appears to be the case here. Short-term pricing policies are not the overriding concern of the marketplace, yet they are the *exclusive* concern of the DOJ, which acts myopically to prevent any potential increase in consumer costs.

Free competition cannot be enforced by government fiat. Competition is an inherently dynamic process that must account for multiple variables, including the freedom to either enter or exit the market as the facts demand. Businesses rely on the expertise of their officers, employees, and partners to ensure both the profitability of the firm and the fulfillment of consumer needs. Businesses that successfully answer the question of production gain customers and wealth, businesses that fail lose both.

The DOJ, by contrast, relies on static rules that fail to account for the complexity of business and yet seek to enforce an unjust and unworkable egalitarianism. While claiming that it is protecting the free market, the Government maintains total faith in its ability to identify and enforce what is in the best interest of every single businessman and consumer in the United States absent their own uncoerced choices. This faith is usually referred to as protecting the ''public interest.''

Reasonable people understand, however, that the DOJ can not speak for the ''public interest,'' because no such interest has ever existed. The United States is a nation predicated on the defense of individual rights, not the collective interests of opposed pressure groups. Every individual has the right to assert their right to economic self-determination through the pursuit of voluntary trade. Objective laws are necessary to ensure the protection of individual rights in our system of voluntary trade, but that is far different than assigning the government arbitrary and capricious power to dictate economic outcomes, as is the situation here. In this case, the DOJ is suspending individual rights and replacing them with a definition of the ''public interest'' that doesn't hold water. Simply by asserting the metaphysical existence of the public interest in its enforcement of the antitrust laws, the DOJ denies almost every fact that drives the voluntary exchange between individuals in the free market.

This case reveals both the fundamental defects of both the antitrust laws and the strategy employed by the Government in their enforcement. Previously, in the DOJ's answer to CAC's objections to its proposed settlement agreement in United States v. Computer Associates International, Inc., *et al.* [5], the DOJ noted both CAC's philosophic opposition to the antitrust laws and the Supreme Court's history of upholding these laws. While CAC appreciates the DOJ's mastery of the blatantly obvious, we must respectfully point out that even within the context of the Supreme Court's odious approval of antitrust, the Government's position in this case and its subsequent settlement is logically defective.

Nothing in the proposed judgment benefits producers, consumers, or the

[2] *United States* v. *Computer Associates Int's, et al.,* Civil No. 01–020602 (D.D.C. April 23, 2002).

[3] *In re American Institute for Conservation of Historic and Artistic Works,* File No. 011–0244 (Sept. 10, 2002).

[4] 67 FR 64657, 64662 (October 21, 2002).

[5] 67 FR 66419 (Oct. 31, 2002).

foundations of the free market, unless it is held that capitalism is advanced by turning producers into serfs. Nothing in the proposed judgment benefits our proper understanding of the Constitution and the Executive Branch's role under that document. This settlement has everything to do with the Government asserting control over the economy, eroding the rights of businessmen, and introducing regulatory chaos into an already volatile technology market in the naked pursuit of a moral fiction. In the absence of this judgment, MATRIXx would be given the timely death the marketplace has condemned it to. With this judgment, that process will simply be prolonged, as two competitors are coerced to waste precious talent, time and money to compete far beyond the point that the marketplace has deemed such an endeavor to have practical value.

The Court must put a stop to the DOJ by rejecting entry of the proposed final judgment and dismissing the complaint with prejudice. The Court is well within its mandate under the Tunney Act to reject the proposed remedy in relationship to the violations that the United States alleges in its Complaint by holding the Government's definition of how the public interest is served by the remedy to be invalid. By protecting the public from gratuitous settlements that unjustly punish defendants, the Court would properly establish that the Tunney Act is a door that swings both ways. At a minimum, the Court should conduct a full hearing on the proposed remedy and demand the DOJ produce evidence placing the challenged conduct in its proper context.

Respectfully Submitted,

The Center for the Advancement of Capitalism

Dated: December 19, 2002.

/S/

S.M. Oliva,

Senior Fellow.

/S/

Nicholas P. Provenzo,

Chairman.

Post Office Box 16325, Alexandria, VA 22302–8325, Telephone: (703) 625–3296, Facsimile: (703) 997–6521, E-mail: info@capitalismcenter.org.

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—AAF Association, Inc.

Notice is hereby given that, on December 19, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), AAF Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Apple, Cupertino, CA; Maximum Throughput, Montreal, Quebec, Canada; Omnibus Systems Ltd., Loughborough, England, United Kingdom; and SGI, Mountain View, CA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and AAF Association, Inc. intends to file additional written notification disclosing all changes in membership.

On March 28, 2000, AAF Association, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 29, 2000 (65 FR 40127).

The last notification was filed with the Department on September 17, 2002. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 6, 2002 (67 FR 67648).

Contance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–1416 Filed 1–22–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative and Production Act of 1993—Laser Forming of Complex Structures

Notice is hereby given that, on December 18, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), General Electric Company has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to and (2) the nature and objectives of a joint venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are GE Corporate Research and Development, Niskayuna, NY; Caterpillar Inc., Peoria, NY; Columbia University, New York, NY; A. Zahner Company, Kansas City, MO; and Native American Technologies Co., Golden, CO. The nature and objectives of the research project are to develop laser forming of complex structures. The activities of this project will be partially funded by an award from the Advanced Technology program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust.

[FR Doc. 03–1418 Filed 1–22–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Mobile Wireless Internet Forum

Notice is hereby given that, on October 28, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Mobile Wireless Internet Forum has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Equant Telecommunications SA, Sophia Antipolis, France; and ETRI, Daejon, Republic of Korea have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Mobile Wireless Internet Forum intends to file additional written notification disclosing all changes in membership.

On May 25, 2000, Mobile Wireless Internet Forum filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on August 11, 2000 (67 FR 49264).

The last notification was filed with the Department on July 18, 2002. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on September 4, 2002 (67 56588).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–1417 Filed 1–22–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Electronics Manufacturing Initiative, Inc. (''NEMI'')

Notice is hereby given that, on December 30, 2002, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Electronics Manufacturing Initiative, Inc. (''NEMI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 3SAE Technologies, Inc., Nashville, TN; Aerotech World Trade, Ltd., Westlake Village, CA; Aurora Industries, Inc., Ambler, PA; Centre for Microelectronics Assembly and Packaging (CMAP), Toronto, Ontario, Canada; E2open, Redwood City, CA; FCI Electronics, Inc., Etters, PA; Heraeus, Inc., W. Conshohocken, PA; Jabil Circuit, Inc., St. Petersburg, FL; kSARIA Corporation, Wilmington, MA; LACE Technologies, St. Charles, IL; Nextrom Photonics SA, Gals, Switzerland; Sun Microsystems, Inc., Newark, CA; and Sumitomo Electric Lightwave Corporation, Morganvile, NJ have been added as parties to this venture.

Also, CALNET, Vienna, VA; Cyberoptics Corporation, Minneapolis, MN; and Eastman Kodak Company, Rochester, NY have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NEMI intends to file additional written notification disclosing all changes in membership.

On June 6, 1996, NEMI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 28, 1996 (61 FR 33774).

The last notification was filed with the Department on November 7, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on February 15, 2002 (67 FR 7201).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–1415 Filed 1–22–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Existing Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Reinstatement of a currently approved collection, National Corrections Reporting Program.

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, has submitted the following information collection request to the Office of Management and Budget 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 March 24, 2003. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lawrence A. Greenfeld, Director, Bureau of Justice Statistics, 810 Seventh Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

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

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *Title of the form/collection:* National Corrections Reporting Program. The collection includes the forms: Prisoner Admission Report (all States), Prisoner Release Report (all States), Parole Release Report (all States), and Prisoner in Custody at Year-end Report (only for States submitting data electronically).

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form number(s): NCRP–1A, NCRP–1B, NCRP–1C, and NCRP–1D. Corrections Statistics Unit, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: The National Corrections Reporting Program (NCRP) is the only national data collection furnishing annual individual-level information for State prisoners admitted or released during the year, those in custody at year-end, and persons discharged from parole supervision. The NCRP collects data on sentencing, time served in prison and on parole, offense, admission/release type, and demographic information. BJS, the Congress, researchers, and criminal justice practitioners use these data to describe annual movements of adult offenders through State correctional systems. Providers of the data are personnel in the State Departments of Corrections and Parole.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: BJS anticipates 44 respondents for report year 2003 with a total annual burden of 2.491 hours. Magnetic media or other electronic formats are expected from 41 respondents and 3 respondents

are expected to report manually. The respondents who have an automated data system will require an estimated 24 hours of time to supply the information for their annual caseload and an additional 2 hours documenting or explaining the data. The estimate of respondent burden for these States includes time required for modifying computer programs, preparing input data, and documenting the tape format and record layout.

The estimated average amount of time required to manually complete the NCRP–1A, NCRP–1B, and NCRP–1C questionnaires are 10 minutes, 5 minutes, and 3 minutes per inmate, respectively. The respondent burden is directly related to the number of cases reported. For 2000, the three manually reporting States submitted about 3,100 completed questionnaires for the NCRP–1A; about 2,700 for the NCRP–1B; and about 580 for the NCRP–1C. The estimated total burden for these respondents who submitted data manually was 771 hours. We expect no additional manual reporters in the future; and we expect an insignificant amount of increase in the number of prison admissions, prison releases and parole exists in the three States that currently report manually.

(6) An estimate of the total public burden (in hours) associated with the collection: There are an estimated 2,491 burden hours annually associated with this information collection.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: January 16, 2003.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 03–1436 Filed 1–22–03; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection: Comments Requested

ACTION: 60-Day Emergency Notice of Information Collection Under Review: Reinstatement, without change, of a previously approved collection for which approval has expired. Certification of Compliance with Eligibility Requirements of Section 826 of the Higher Education Amendments of 1998.

The Department of Justice, Office of Justice Programs, Office on Violence Against Women has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by January 31, 2003. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulation Affairs, Attention: Department of Justice Desk Officer (202) 395–6466, Washington, DC 20503.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Cathy Poston, Attorney/Advisor, Office on Violence Against Women, Office of Justice Programs, Department of Justice, 810 7th Street NW., Washington DC 20531, or call (202) 305–2589.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. *e.g.,* permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* Certification of Compliance with Eligibility Requirements of Section 826 of the Higher Education Amendments of 1998.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: none. Office of Violence Against Women, Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked to required to respond, as well as brief abstract:* Primary: Institutions of Higher Education. Other: None. The grants to Reduce Violent Crimes Against Women on Campus Program was authorized through Section 826 of the Higher Education Amendments of 1998 to make funds available to institutions of higher education to combat domestic violence, dating violence, sexual assault and stalking crimes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply;* It is estimated that 125 respondents will complete the application in approximately 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimate total public burden associated with this application is 62 hours.

If additional information is required contact: Brenda E. Dyer, Department of Deputy Clearance Office, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW, Patrick Henry Building, Suite 1600, NW., Washington, DC 20530.

Dated: January 16, 2003.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 03–1437 Filed 1–22–03; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or

continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c) (2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed. Currently, Departmental Management is soliciting comments concerning the proposed extension of the *Customer Satisfaction Surveys and Conference Evaluations Generic Clearance.*

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before March 24, 2003.

The Department of Labor 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 submissions of responses.

ADDRESSES: Send comments to Darrin A. King, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue, NW., Washington, DC 20210. Mr. King can be reached on 202–693–4129 (this is not a toll free number) or by e-mail at *king-darrin@dol.gov.*

SUPPLEMENTARY INFORMATION:

1. Background

The Department of Labor (DOL) conducts a variety of voluntary Customer Satisfaction Surveys of regulated/non-regulated entities, which are specifically designed to gather information from a customer's perspective as prescribed by E.O. 12862, Setting Customer Service Standards, September 11, 1993. These Customer Satisfaction Surveys provide information on customer attitudes about the delivery and quality of agency products/services and are used as part of an ongoing process to improve DOL programs. This generic clearance allows agencies to gather information from both Federal and non-Federal users.

In addition to conducting Customer Satisfaction Surveys, the Department also includes the use of evaluation forms for those DOL agencies conducting conferences. These evaluations are helpful in determining the success of the current conference, in developing future conferences, and in meeting the needs of the Department's product/service users.

II. Current Actions

Over the past three years the DOL has conducted more than two dozen Customer Satisfaction Surveys and conference evaluations, which have helped assess the Departments products and services and has led to improvements in areas deemed necessary. Office of Management and Budget approval for this collection of information expires June 30, 2003. DOL proposes to seek continued approval for this collection of information for an additional three years.

Type of Review: Extension of a currently approved collection.

Agency: Office of the Assistant Secretary for Administration and Management Departmental Management.

Title: Customer Satisfaction Surveys and Conference Evaluations Generic Clearance.

OMB Number: 1225–0059.

Affected Public: Individuals and households; business or other for-profit; not-for-profit institutions; farms; Federal Government; and State, Local, or Tribal Government.

Total Respondents: Varies by survey/evaluation; may range from as few as 10 to over 63,750.

Frequency: On occasion.

Total Responses: Varies by survey/evaluation; may range from as few as 10 to over 63,750.

Average Time Per Response: Varies by survey/evaluation with an average of 9.5 minutes per survey and 2.5 minutes per evaluation.

Total Burden Hours: 13,500.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC., this 17th day of January, 2003.

Darrin A. King,

Agency Clearance Officer, Office of the Assistant Secretary for Administration and Management.

[FR Doc. 03–1521 Filed 1–22–03; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 16, 2003.

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 this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail *King-Darrin@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for MSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), 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: Mine Safety and Health Administration (MSHA).

Type of Review: Extension of a currently approved collection.

Title: Record of Mine Closures, Opening and Reopening of Mines.

OMB Number: 1219–0073.

Affected Public: Business or other for-profit.

Frequency: On occasion; semi-annually; and annually.

Type of Response: Recordkeeping and Reporting.

Number of Respondents: 2,407 .*

Requirement	Number of respondents	Annual frequency	Annual responses	Average responses time (hour)	Annual burden hours
30 CFR 75.1200, 75.1200–1, 75.1201, 75.1202, 75.1202–1, and 75.1203	224	2	448	32	14,336
30 CFR 75.1204 and 75.1204–1	724	1	724	2	1,448
30 CFR 75.373 and 75.1721	94	1	94	6	564
30 CFR 77.1200, 77.1201, and 77.1202	379	1	379	20	7,580
Totals			1,645		23,928

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $23,803,160.

Description: 30 CFR 75.1200, 75.1200–1, 75.1201, 75.1202, 75.1202–1, 75.1203, 75.1204, 75.1204–1, 75.372, 75.373, 75.1721, 77.1200, 77.1201, 77.1202, contain requirements for the following: preparation and maintenance of accurate and up-to-date mine maps; submittal to MSHA of Final Mine Ventilation Maps and for a record of Mine Closure; and notification and information submittal to MSHA for the reopening of previously abandoned or the opening of new mines.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–1519 Filed 1–22–03; 8:45 am]

BILLING CODE 4510–43–P

* The total respondents are 893 underground mines or 1,514 surface mines; however, only 25% of the mine operators perform these tasks utilizing mine-staff, the remaining 75% utilize contracting services. The contracting services are included as an Operating and Maintenance cost (shown below).

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 9, 2003.

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 individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze on (202) 693–4158 or e-mail *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), 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.

Type of Review: Revision of currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Black Lung Provider enrollment Form.

OMB Number: 1215–0137.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Number of Respondents: 20,100.

Number of Annual Responses: 20,100.

Estimated Time Per Response: 8 minutes (new enrollees) and 3 minutes (existing respondents).

Total Burden Hours: 2,497.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $8,040.00.

Description: The Division of Coal Mine Workers' (DCMWC) is responsible for maintaining a list of authorized treating physicians and medical facilities in the area of the miner's residence and for payment of certain medical bills for services and supplies provided to the miner under the Black Lung Benefits Act [30 U.S.C. 901 *et seq.,* 20 CFR 725.704(a) and 725.705(b)].

The OWCP–1168 is used to obtain profile information on each provider such as tax identification number, specialty, and addresses. Failure to obtain this data will prolong the bill payment process and increase the burden on providers by requiring them to resubmit bills that were previously rejected by DCMWC due to inadequate provider information.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–1520 Filed 1–22–03; 8:45 am]

BILLING CODE 4510–CK–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 30, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To

obtain documentation, contact Darrin King on (202) 693–4129 or e-mail: *King_Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316, 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 (VETS).

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.

Frequency: On occasion.

Number of Respondents: 1,500.

Number of Annual Responses: 1,500.

Estimated Time Per Response: 15 minutes.

Total Burden Hours: 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 Federal employment.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–1522 Filed 1–22–03; 8:45 am]

BILLING CODE 4510–79–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 9, 2003.

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 individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 693–4148 or e-mail *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316), within 30 days from the date of this publication of 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.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Work Experience and Career Exploration Programs (29 CFR 570.35A).

OMB Number: 1215–0121.

Affected Public: Individuals or households and State, Local or Tribal Government.

Frequency: Biennially.

Number of Respondents: 14,014.

Number of Annual Responses: 14,014.

Average Time Per Response:

Reporting

• WECEP Application—2 hours.

• Written Training Agreement—1 hours.

Record-keeping

• WECEP Program Information—1 hour.

• Filing of WECEP Record and Training Agreement—One-half minute.

Total Burden Hours: 7,145.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Section (3)(1) of the Fair Labor Standards Act (FLSA) establishes a minimum age of 16 for most nonagricultural employment, but allows the employment of 14 and 15 year olds in occupations other than manufacturing and mining if the Secretary of Labor determines such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being. State educational agencies are required to file applications for approval of Work Experience and Career Exploration Programs (WECEP) that provide exceptions to the child labor regulations issued under the FLSA. State educational agencies are also required to maintain certain records with respect to approved WECEP programs. Less frequent application would not ensure that these programs do not interfere with the schooling of the minors or with their health and well-being. Less frequent record-keeping would make a determination of compliance with the law and regulations extremely difficult.

Ira L. Mills,

Department Clearance Officer.

[FR Doc. 03–1523 Filed 1–22–03; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Roof Control Plan

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. The program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection related to the 30 CFR Sections

75.215—Longwall mining systems;

75.220—Roof control plan;

75.221—Roof control plan information;

75.222—Roof control plan-approval criteria; and

75.223—Evaluation and revision of roof control plan.

DATES: Submit comments on or before March 24, 2003.

ADDRESSES: Send comments to Jane Tarr, Management Analyst, Administration and Management, 1100 Wilson Boulevard, Room 2171, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on computer disk, or via Internet E-mail to *Tarr-Jane@Msha.gov*. Ms. Tarr can be reached at (202) 693–9824 (voice), or (202) 693–9801 (facsimile).

FOR FURTHER INFORMATION CONTACT: Jane Tarr, Management Analyst, Records Management Group, U.S. Department of Labor, Mine Safety and Health Administration, Room 2171, 1100 Wilson Boulevard, Arlington, VA 22209–3939. Ms. Tarr can be reached at *Tarr-Jane@msha.gov* (Internet-E-mail), (202) 693–9824 (voice), or (202) 693–9801 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 302(a) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 846, requires that a roof control plan and revisions thereof suitable to the roof conditions and mining system of each coal mine be first approved by the Secretary of Labor (Secretary) before implementation by the operator. The plan must show the type of support and spacing approved by the Secretary, and the plan must be reviewed at least every 6 months by the Secretary.

Under 30 CFR 75.221, the information required to be submitted and approved in the roof control plan includes the following: (1) The name and address of the company; (2) the name, address, mine identification number, and location of the mine; (3) the name and title of the company official responsible for the plan; (4) a description of the mine strata; (5) a description and drawings of the sequence of installation and spacing of supports for each method of mining used; (6) the maximum distance that an ATRS system is to be set beyond the last row of permanent support (if appropriate); (7) specifications and installation procedures for liners or arches (if appropriate); (8) drawings indicating the planned width of openings, size of pillars, method of pillar recovery, and the sequence of mining pillars; (9) a list of all support materials required to be used in the roof, face and rib control system; (10) the intervals at which test holes will be drilled (if appropriate); and (11) a description of the methods to be used for the protection of persons. Under 30 CFR 75.215, the roof control plan for each longwall mining section is required to specify the methods that will be used to maintain a safe travelway out of the section through the tailgate side of the longwall and the procedures that will be followed if a ground failure prevents travel out of the section through the tailgate side of the longwall.

II. Desired Focus of Comments

MSHA is particularly interest 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; the
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the ''For Further Information Contact'' section of this notice, or viewed on the Internet by accessing the MSHA home page (*http://www.msha.gov*) and then choosing ''Statutory and Regulatory Information'' and ''Federal Register Documents.''

III. Current Actions

Falls of roof, face and rib continue to be a cause of injuries and death in underground coal mines. All underground coal mine operators are required to develop and submit roof control plans to MSHA for evaluation and approval. These plans provide the means to instruct miners, who install roof supports, and the minimum requirements and placement of roof supports. The plan also provides a reference for mine supervisors to assist them in compliance with the plan requirements. In that regard the plan is a working document for the miners.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Roof Control Plan.

OMB Number: 1219–0004.

Recordkeeping: Indefinite.

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Section	Total respondents	Frequency	Total responses	Avg. time/ response (hours)	Burden hours
75.220	47	On occasion	47	24	1,128
75.223	893	On occasion	957	5	4,785
75.223(b)	893	On occasion	1,753	.08	140
Totals	1,833		2,757		6,053

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $5,020.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated at Arlington, Virginia, this 16th day of January, 2003.

Thomas Charboneau,

Financial Manager, Office of Administration and Management.

[FR Doc. 03–1428 Filed 1–22–03; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment; Prohibited Transaction Class Exemption 2002–12, Cross-Trades of Securities by Index and Model Funds

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments on the proposed extension of the disclosure provisions of the Prohibited Transaction Class Exemption 2002–12, Cross-Trades of Securities by Index and Model Funds.

A copy of the information collection request (ICR) can be obtained by contacting the individual shown in the Addresses section of this notice.

DATES: Written comments must be submitted to the office shown in the Addresses section on or before March 24, 2003.

ADDRESSES: Joseph S. Piacentini, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Washington, DC 20210, (202) 693–8410, FAX (202) 219–5333. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

PTE 2002–12 exempts certain transactions that would be prohibited under the Employee Retirement Income Security Act of 1974 (the Act or ERISA) and the Federal Employees' Retirement System Act (FERSA), and provides relief from certain sanctions of the Internal Revenue Code of 1986 (the Code). The exemption permits cross-trades of securities among index and model-driven funds (Funds) managed by investment managers, and among such Funds and certain large accounts (Large Accounts) that engage such managers to carry out a specific portfolio restructuring program or to otherwise act as a ''trading adviser'' for such a program. By removing existing barriers to these types of transactions, the exemption increases the incidences of cross-trading, thereby lowering fees to plans from what they would otherwise be if based on multiple individual trades.

In order for the Department to grant an exemption for a transaction or class of transactions that would otherwise be impermissible under ERISA, the statute requires the Department to make a finding that the exemption is administratively feasible, in the interest of the plan and its participants and beneficiaries, and protective of the rights of the participants and beneficiaries. To insure that investment managers have complied with the requirements of the exemption, the Department has included in the exemption certain recordkeeping and disclosure obligations that are designed to safeguard plan assets by periodically providing information to independent plan fiduciaries about changes in the cross-trading program. Initially, where plans are not invested in Funds, investment managers must have authorization from a plan fiduciary to invest plan assets in Funds. For plans that are currently invested in Funds, certain notices must be provided that describe the cross-trading program, update changes in Funds, and provide the plan with an opportunity to withdraw from the program. For Large Accounts, information must be provided by the investment manager about the results of transactions involved in a portfolio-restructuring program. Finally, the exemption requires that Funds and Large Accounts maintain for a period of 6 years the records necessary to enable certain persons authorized by the exemption (e.g., Department representatives or contributing employers, to determine whether the conditions of the exemption have been met.)

The exemption affects participants and beneficiaries of employee benefit plans whose assets are invested in Index or Model-Driven Funds, large pension plans and other large accounts involved in portfolio restructuring programs, as well as the Funds and their investment managers.

II. Desired Focus of Comments

- The Department of Labor (Department) is particularly interested in comments that:
- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

Extension of the information collection provision of the exemption is important because, without the disclosures and recordkeeping provided for in the exemption, participants and beneficiaries' investments in a pension plan might not be protected. In addition, investment managers, that cross trade securities among Funds or engage in the restructuring of a portfolio of a Large Account would be subject to statutorily imposed sanctions under ERISA. Lastly, the exemption provides a benefit to plans and participants through savings that result from index/model cross-trading. No change to the existing ICR is proposed or made at this time.

Agency: Pension and Welfare Benefits Administration, Department of Labor.

Title: Prohibited Transaction Class Exemption 2002–12, Cross-Trades of

Securities by Index and Model-Driven Funds.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0115.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 66.

Responses: 924.

Estimated Total Burden Hours: 4,707.

Estimated Total Burden Cost (Operating and Maintenance): $109,000.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 16, 2003.

Joseph S. Piacentini,

Deputy Director, Pension and Welfare Benefits Administration, Office of Policy and Research.

[FR Doc. 03–1427 Filed 1–22–03; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–005)]

NASA Advisory Council, Task Force on International Space Station Operational Readiness; 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 an open meeting of the NASA Advisory Council (NAC), Task Force on International Space Station Operational Readiness (IOR).

DATES: Friday, February 21, 2003, 12 Noon—1 p.m. Eastern Standard Time.

ADDRESSES: This meeting will be conducted via teleconference; hence participation will require contacting Mr. Lee Pagel (202/358–4621) before 12 Noon Eastern, February 14, 2003, and leaving your name, affiliation, and phone number.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Pagel, Code IH, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4621.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the capability of the teleconferencing system. The agenda for the meeting is as follows:

—To assess the operational readiness of the International Space Station to support the new crew and the American and Russian flight team's preparedness to accomplish the Expedition Seven mission.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–1399 Filed 1–22–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–006)]

NASA Advisory Council, Biological and Physical Research Advisory Committee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Biological and Physical Research Advisory Committee.

DATES: Thursday, February 13, 2003, from 10 a.m. until 6 p.m. and Friday, February 14, 2003 from 8 a.m. until 12 Noon.

ADDRESSES: NASA Headquarters, 300 E Street SW., Room 7H46, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Bradley Carpenter, Code UG, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0826.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capability of the meeting room. Due to the increased security at NASA facilities, any members of the public who wish to attend this meeting of the Biological and Physical Research Advisory Committee must provide their name, date and place of birth, citizenship, social security number, or passport and visa information (number, country of issuance and expiration), business address and phone number, if any. This information is to be provided at least 72 hours (10 a.m. EDT on February 10, 2003) prior to the date of the public meeting. Identification information is to be provided to Dr. Bradley Carpenter at 202/358–0826 or via e-mail at *bcarpent@hq.nasa.gov.* Failure to timely provide such information may result in denial of attendance. Photo identification may be required for entry into the building. Persons with disabilities who require assistance should indicate this in their message. Due to limited availability of seating, members of the public will be admitted on a first-come, first-serve basis. News media wishing to attend the meeting should follow standard accreditation procedures. Members of the press who have questions about these procedures should contact the NASA Headquarters newsroom (202/358–1600). The agenda for the meeting is as follows:

—Review Recommendations
—Program Overview
—Biomedical Research Issues
—Division Reports
—Education and Outreach Policy
—International Space Station Research Status
—Strategic Plan Development

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–1400 Filed 1–22–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meetings

TIMES AND DATES: 1 p.m. to 5 p.m., March 5, 2003; 8:30 a.m. to 12 p.m., March 6, 2003.

PLACE: Embassy Suites Hotel Alexandria'Old Town, 1900 Diagonal Road, Alexandria, VA 22314.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Reports from the Chairperson and the Executive Director, Committee meetings and Committee reports, executive session, unfinished business, new business, announcements, adjournment.

PORTIONS OPEN TO THE PUBLIC: Reports from the Chairperson and the Executive Director, Committee meetings and Committee reports, unfinished business, new business, announcements, adjournment.

PORTIONS CLOSED TO THE PUBLIC: Executive session.

CONTACT PERSON FOR MORE INFORMATION: Mark S. Quigley, Director of Communications, National Council on Disability, 1331 F Street, NW., Suite 850, Washington, DC 20004; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax), *mquigley@ncd.gov* (E-mail).

AGENCY MISSION: The National Council on Disability (NCD) is an independent Federal agency composed of 15 members appointed by the President and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, including people from culturally diverse backgrounds, regardless of the nature or significance of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

ACCOMMODATIONS: Those needing sign language interpreters or other disability accommodations should notify NCD at least one week prior to this meeting.

LANGUAGE TRANSLATION: In accordance with E.O. 13166, Improving Access to Services for Persons with Limited English Proficiency, those people with disabilities who are limited English proficient and seek translation services for this meeting should notify NCD at least one week prior to this meeting.

MULTIPLE CHEMICAL SENSITIVITY/ ENVIRONMENTAL ILLNESS: People with multiple chemical sensitivity/ environmental illness must reduce their exposure to volatile chemical substances to attend this meeting. To reduce such exposure, NCD requests that attendees not wear perfumes or scented products at this meeting. Smoking is prohibited in meeting rooms and surrounding areas.

Dated: January 17, 2003.

Ethel D. Briggs,

Executive Director.

[FR Doc. 03–1585 Filed 1–17–03; 5:10 pm]

BILLING CODE 6820–MA–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cooperative Agreement for the Mayor's Institute on City Design

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to one (1) award of a Cooperative Agreement to support the continuing activities of: ''The Mayors' Institute on City Design.'' Eligibility for award of the Cooperative Agreement is limited to 501(c)(3) organizations with national programming, a mission that includes education and advocacy regarding policies and practices affecting the design of American cities, and a national constituency. The initial Cooperative Agreement will be for one year, anticipated to commence in May of 2003. Funding of $400,000 is available through the Endowment. A match of at least 30% will be required. The Mayors' Institute on City Design is a forum designed to foster an understanding of and appreciation for the role of design in creating vibrant, livable cities, and the importance of mayors and their role as design advocates in American cities. Activities of the Mayors' Institute include workshops, newsletters, and a website. Those interested in receiving the solicitation package should reference Program Solicitation PS 03–01 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored. The Program Solicitation will also be posted on the Endowment's Web site at *http://www.arts.gov.*

DATES: Program Solicitation PS 03–01 is scheduled for release and posting on the Internet on approximately February 5, 2003. Proposals will be due on March 10, 2003.

ADDRESSES: Request for the Solicitation should be addressed to the National Endowment for the Arts, Grants & Contracts Office, Room 618, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: William Hummel, Grants & Contracts Office, National Endowment for the Arts, Room 618, 1100 Pennsylvania Ave., NW., Washington, DC 20506 (202/682-5482).

William I. Hummel,

Coordinator, Cooperative Agreements and Contracts.

[FR Doc. 03–1462 Filed 1–22–03; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: National Science Foundation, National Science Board, Task Force on National Workforce Policies for Science & Engineering.

DATE AND TIME: January 30, 2003 2 p.m.–3 p.m. Open Session.

PLACE: The National Science Foundation, Stafford One Building, 4201 Wilson Boulevard, Room 120, Arlington, VA 22230.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Thursday, January 30, 2003.

Open Session (2 p.m. to 3 p.m.)

—Discussion of the draft report of the NSB/EHR Task Force on National Workforce Policies for S&E.

FOR INFORMATION CONTACT: Gerard Glaser, Executive Officer, NSB, (703) 292–7000, *www.nsf.gov/nsb.*

Gerard Glaser,

Executive Officer.

[FR Doc. 03–1668 Filed 1–21–03; 2:12 pm]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8989]

Issuance of Environmental Assessment and Finding of No Significant Impact for Exemption From Certain NRC Licensing Requirements for Special Nuclear Material for Envirocare of Utah, Inc.

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an Order pursuant to Section 274f of the Atomic Energy Act that would modify an Order transmitted to Envirocare of Utah, Inc. (Envirocare) on May 24, 1999. The Order was published in the **Federal Register** on May 21, 1999 (64 FR 27826). The 1999 Order exempted Envirocare from certain NRC regulations and permitted Envirocare, under specified conditions, to possess waste containing special nuclear material (SNM), in greater quantities than specified in 10 CFR part 150, at Envirocare's low-level waste (LLW) disposal facility located in Clive, Utah, without obtaining an NRC license pursuant to 10 CFR part 70. The 1999 Order permits Envirocare to possess SNM without regard for mass. Rather than relying on mass to ensure criticality safety, concentration-based limits are being applied, such that accumulations of SNM at or below these concentration limits would not pose a criticality safety concern. The methodology used to establish these limits is discussed in the 1999 SER that supported the 1999 Order.

Envirocare is licensed by the State of Utah, an NRC Agreement State, under a 10 CFR part 61 equivalent license for

the disposal of LLW. Envirocare is also licensed by Utah to dispose of mixed-radioactive and hazardous wastes. In addition, Envirocare has an NRC license (SMC–1559) to dispose of waste containing 11(e)2 byproduct material.

In letters dated July 3, 2002, and July 29, 2002, Envirocare requested that the 1999 Order be amended as discussed below. Staff's safety analysis for the revisions to the 1999 Order are discussed in the companion Safety Evaluation Report (SER).

II. Environmental Assessment (EA)

Identification of Proposed Action

Envirocare proposes that NRC amend the 1999 Order as follows: (1) Include stabilization of liquid waste streams containing SNM; (2) include the thermal desorption process; (3) change the homogenous contiguous mass limit from 145 kg to 600 kg; (4) change the language and SNM limit associated with footnotes ''c'' and ''d'' of Condition 1 to reflect all materials in Conditions 2 and 3; and (5) omit the confirmatory testing requirements for debris waste.

Need for the Proposed Action

The 1999 Order limited certain mixed waste processing activities to those specifically approved in the Order. Envirocare is expanding its mixed waste processing capabilities to include stabilization of liquid waste streams and thermal desorption for economic reasons. Moreover, Envirocare's State of Utah licenses have been modified to include these processes, and revision of the 1999 Order is required to allow for treatment by these processes of waste streams containing SNM. Envirocare has been operating under the Order since 1999 and believes that some conditions need to be clarified.

Alternatives to the Proposed Action

The NRC staff considered two alternatives to the proposed action. One alternative to the proposed action would be to not revise the exemption (no-action alternative). Another alternative would be to revise the exemption as requested by Envirocare but with additional conditions.

Affected Environment

NRC has prepared an environmental impact statement (EIS) (NUREG–1476), SERs, and EAs for its licensing action. The affected environment is discussed in detail in NUREG–1476.

Environmental Impacts of the Alternatives

No Action Alternative: For the no-action alternative, the environmental impacts would be the same as evaluated in the Environmental Assessment (64 FR 26463, May 14, 1999) to support the 1999 Order. The regulations regarding SNM possession in 10 CFR part 150 set mass limits whereby a licensee is exempted from the licensing requirements of 10 CFR part 70 and can be regulated by an Agreement State. The licensing requirements in 10 CFR part 70 apply to persons possessing greater than critical mass quantities (as defined in 10 CFR 150.11). The principle emphasis of 10 CFR part 70 is criticality safety and safeguarding SNM against diversion or sabotage. The NRC staff considers that criticality safety can be maintained by relying on concentration limits, under the specified conditions. These concentration limits are considered an alternative definition of quantities not sufficient to form a critical mass to the weight limits in 10 CFR 150.11; thereby, assuring the same level of protection. The 1999 EA concluded that the 1999 Order would have no significant radiological or nonradiological environmental impacts.

Proposed Action: For the proposed actions, the environmental impacts of changing the homogenous contiguous mass limit from 145 kg to 600 kg and changing the language and SNM limit associated with footnotes ''c'' and ''d'' of Condition 1 to reflect all materials in Conditions 2 and 3 would have the same environmental impacts as the 1999 Order and the no action alternative. In the SER supporting the revision to the 1999 Order, staff concluded that including stabilization of liquid waste streams containing SNM and thermal desorption process, and omitting the confirmatory testing requirements for debris waste could increase the risk of an inadvertent criticality. The environmental impacts from a criticality accident at the Envirocare site would include human health impacts to worker and possible loss of life to a few workers. Given the proximity of the public, human health impacts to the public (such as motorist on adjacent roadways) would not be expected to be significant. Gaseous and particulate emissions during the criticality could contaminate land outside the restricted area. Cleanup of this contamination would have some short-term impact on the environment.

Proposed Action with Additional Conditions: In the SER supporting the revision to the 1999 Order, staff identified additional conditions that would be required to ensure sufficient protection of health, safety, and the environment. These include limiting the mass of SNM in liquid waste, requiring SNM concentration testing following thermal desorption treatment, reducing the concentration limit associated with footnote ''c'', and reducing the allowable concentration when confirmatory sampling and testing is not conducted by Envirocare. These conditions would result in the same environmental impact as the no action alternative.

Preferred Alternative

The staff has concluded in the SER, dated January 14, 2003, for this exemption request that the proposed action (*i.e.*, revise the exemption as request by Envirocare without additional conditions) would not provide sufficient protection of health, safety, and the environment. Therefore, staff's preferred alternative is to revise the 1999 Order with additional conditions. These include limiting the mass of SNM in liquid waste, requiring SNM concentration testing following thermal desorption treatment, reducing the concentration limit associated with footnote ''c'', and reducing the allowable concentration when confirmatory sampling and testing is not conducted by Envirocare. The staff has concluded that with these revised conditions, the conclusion in the 1999 EA associated with the 1999 Order remain valid.

Agencies and Persons Consulted

Officials from the State of Utah, Department of Environmental Quality, Division of Radiation Control were contacted about this EA for the proposed action and had no comments. Because the proposed action is not expected to have any impact on treated or endangered species or historic resources, the Fish and Wildlife Service and State of Utah Historic Preservation Officer were not consulted.

III. Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing EA, the NRC finds that the preferred alternative of revising the exemption with additional conditions will not significantly impact the quality of the human environment.

Accordingly, the NRC has decided not to prepare an EIS for the proposed exemption.

IV. Further Information

The requests for modifying the Order are available for inspection at NRC's Public Electronic Reading Room at *http://www.nrc.gov/NRC/ADAMS/index.html* ML021900394 and ML022180270. The January 14, 2003, Safety Evaluation is available at

ML023470587. The 1999 EA is available in the **Federal Register** at 64 FR 26463 (May 14, 1999). Documents may also be obtained from NRC's Public Document Room at U.S. Nuclear Regulatory Commission, Public Document Room, Washington, DC 20555. Any questions with respect to this action should be referred to Timothy Harris, Environmental and Performance Assessment Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–6613, Fax: (301) 415–5398.

Dated at Rockville, Maryland this 14th day of January, 2003.

For the Nuclear Regulatory Commission.

Lawrence E. Kokajko,

Acting Chief, Environmental and Performance Assessment Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 03–1460 Filed 1–22–03; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

January 30, 2003, Board of Directors Meeting

TIME AND DATE: Thursday, January 30, 2003, 1:30 p.m. (open portion); 1:45 p.m. (closed portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

STATUS: Meeting open to the public from 1:30 p.m. to 1:45 p.m. Closed portion will commence at 1:45 p.m. (approx.).

MATTERS TO BE CONSIDERED:

1. President's report.
2. Testimonials:

1. Lottie L. Shackelford.
2. Melvin E. Clark, Jr.
3. John J. Pikarski, Jr.

FURTHER MATTERS TO BE CONSIDERED: (Closed to the public, 1:45 p.m.)

1. Finance project in Pakistan;
2. Finance project in South Africa;
3. Finance project in Bolivia;
4. Finance project in Sub-Saharan Africa;
5. Insurance project in Kazakhstan;
6. Pending major projects;
7. Reports.

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: January 17, 2003.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 03–1565 Filed 1–17–03; 4:18 pm]

BILLING CODE 3210–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the Pacific Exchange, Inc. (Aquila, Inc. (Formerly Known as UtiliCorp United, Inc.), Common Stock, $1.00 Par Value) File No. 1–16315

January 16, 2003.

Aquila, Inc. (formerly known as UtiliCorp United, Inc.), a Delaware corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $1.00 par value (''Security''), from listing and registration on the Pacific Exchange, Inc. (''PCX'' or ''Exchange'').

The Board of Directors (''Board'') of the Issuer approved a resolution on December 2, 2002 to withdraw its Security from listing on the Exchange. The Issuer states that it decided to delist the Security from the PCX as part of the cost-saving measures currently employed by the Issuer in light of its challenging financial situation. In addition, the low volume of trading in the Security (less than 1%) on the PCX does not justify the PCX's listing cost. The Issuer states that 99.6% of the trading in the Security is traded on the New York Stock Exchange, Inc. (''NYSE'').

The Issuer stated in its application that it has complied with the rules of the PCX that govern the removal of securities from listing and registration on the Exchange. The Issuer's application relates solely to the withdrawal of the Security from listing and registration on the PCX and from registration under section 12(b)[3] of the Act and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before February 7, 2003, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the PCX and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 03–1450 Filed 1–22–03; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the Chicago Stock Exchange, Inc. (DST Systems, Inc., Common Stock, $.01 Par Value, and Preferred Stock Purchase Rights) File No. 1–14036

January 16, 2003.

DST Systems, Inc., a Delaware corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.01 par value, and Preferred Stock Purchase Rights (''Securities''), from listing and registration on the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'').

The Issuer states in its application that it has met the requirements of the rules of the Exchange (CHX Article XXVIII, Rule 4) by complying with Exchange's rules governing an issuer's voluntary withdrawal of a security from listing and registration and by complying with all laws in effect in the State of Delaware.

On May 14, 2002, the Board of Directors of the Issuer unanimously approved a resolution to withdraw the Issuer's Securities from listing on the CHX. In making the decision to withdraw the Securities from listing and registration on the CHX, the Issuer states that the expense and administrative time associated with remaining list on the CHX outweighs the limited

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

advantages, and the Issuer no longer sees the value of the additional market place. The Issuer states that the Securities have traded on the New York Stock Exchange, Inc. since November 1995.

The Issuer's application relates solely to the withdrawal of the Securities from listing and registration on the CHX and from registration under Section 12(b) of the Act [3] and shall not affect its obligation to be registered under Section 12(g) of the Act. [4]

Any interested person may, on or before February 7, 2003, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the CHX and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 03–1451 Filed 1–22–03; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25889; File No. 812–12845]

American United Life Insurance Company, *et al.*; Notice of Application

January 16, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to section 6(c) of the Investment Company Act of 1940, as amended (''1940 Act''), providing exemptions from sections 2(a)(32), and 27(i)(2)(A) of the 1940 Act and rule 22c–1 thereunder to the extent necessary to permit the recapture of certain bonus credits.

Applicants: American United Life Insurance Company (''AUL''), AUL American Individual Variable Annuity Unit Trust (the ''Separate Account''), and OneAmerica Securities, Inc. (the ''Distributor''), collectively the ''Applicants.''

SUMMARY OF APPLICATION: Applicants seek an order pursuant to Section 6(c) of the 1940 Act exempting them, to the extent deemed necessary, from Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder, to permit AUL to recapture part or all of a credit applied to premium payments made within the first twelve months after a Contract is issued, in the following instances: (i) When a Contract owner exercises the Contract's free look provision; and (ii) when a Contract owner makes any withdrawal from a Contract within the first seven Contract years. Applicants request that the order extend to other variable annuity contracts that are substantially similar in all material respects to the Contracts that AUL, its affiliates and successors in interest may issue in the future.

FILING DATE: The application was filed on June 28, 2002, and amended and restated on November 8, 2002, December 26, 2002 and January 16, 2003.

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 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 10, 2003, and should be accompanied by proof of service on Applicants, in the form of an affidavit, or 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. Applicants: c/o John C. Swhear, Esq., American United Life Insurance Company, One American Square, Indianapolis, Indiana 46282. Copies to: Ethan D. Corey, Esq., Dechert, 1775 Eye Street, NW., Washington, DC 20006–2401.

FOR FURTHER INFORMATION CONTACT: Patrick F. Scott, Attorney, or Lorna J. MacLeod, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

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 (202) 942–8090.

Applicants' Representations

1. AUL is an Indiana stock insurance company. AUL is the depositor and sponsor of the Separate Account, a separate account established under Indiana law.

2. The Separate Account is registered with the Commission under the 1940 Act as a unit investment trust. AUL owns the assets of the Separate Account that supports obligations under certain individual variable annuity contracts (the ''Contracts''). The Separate Account is currently divided into sub-accounts referred to as Investment Accounts. Each Investment Account invests exclusively in shares of one of the underlying open-end management investment companies, or series thereof, available as investment options under the Contracts. Premiums may be allocated to one or more Investment Accounts available under a Contract. AUL may in the future establish additional Investment Accounts of the Separate Account, which may invest in other securities, mutual funds, or investment vehicles.

3. The individual variable annuity contracts, which are issued by AUL through the Distributor, are unbundled. That is, there is a base contract, with a standard death benefit, and annuity payout options, as well as transfer privileges and dollar cost averaging. Other features under the contract include several optional benefit riders that may be added at the time the Contract is issued for an additional asset-based fee. The Contract has the following charges: (i) A deferred sales charge as a percentage of contributions withdrawn as described above; (ii) an administrative expense fee equal to 0.15% of average Variable Account value on an annual basis; (iii) an annual Contract fee of $50 for contracts with Account Values less than $20,000; $30 for contracts with Account Values $20,000 or greater, but less than $50,000; and $0 for contracts with Account Values $50,000 or greater; (iv) a mortality and expense risk charge equal to 1.15% of average Variable Account value on an annual basis; and (v) any applicable charge for each of the selected riders, described in the Application. Contract owners in certain states may also be required to pay any applicable state premium tax. In addition, assets invested in the Investment Accounts are charged with the annual operating expenses of the underlying Funds.

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[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

4. Premiums under the Contracts may vary in amount and frequency, subject to certain limitations. The Contracts also provide for the accumulation of values either on a variable basis, a fixed basis, or both, as well as several options for fixed and variable annuity payments to begin on a future date. Premium payments under the Contracts may be made at any time during the Contract owner's life and before the Contract's annuity date. The Contract owner has the right to return the Contract for any reason within the ''free look'' period, which is a ten-day period beginning when the Contract owner receives the Contract. If a particular state requires a longer free look period, then eligible Contract owners in that state will be allowed the longer statutory period to return the Contract. The returned Contract will be deemed void and AUL will refund the Account Value, which is the total sum of a Contract owner's interest in the Variable Account and the Fixed Account(s). Initially, the Account Value is equal to the initial premium less any applicable premium tax and thereafter reflects the net result of premiums, investment experience, charges deducted, and any withdrawals taken.

5. The optional Extra Credit Premium Rider offers a credit of 3%, 5% or 6% of the total first year premium payments (the ''Credit''). The Contract owner may select the 3% Credit rider only when the Six Year Contract Withdrawal Charge Rider is selected. If a Contract owner selects the Extra Credit Premium Rider at the time of application, AUL will credit an extra amount to the Contract each time the Contract owner makes a premium payment within the first twelve months after the Contract is issued. AUL will allocate Credit amounts pro rata among the Investment Accounts in the same ratio as the premium payment to which the Credit relates. AUL will fund the Credit amounts from its general account assets.

The annual charge for the Credit Rider will be initially set at 0.55%, 0.65% and 0.75%, of average Account Value, respectively, for the 3%, 5% and 6% Credit amounts. This rider charge will apply until the Credit is totally vested, according to the following vesting schedule:

Contract year	3% credit (percent)	5% credit (percent)	6% credit (percent)
1	0	0	0
2	0	0	4.167
3	25	16.67	16.67
4	50	33.33	33.33
5	75	50	50
6	100	66.67	66.67
7	100	83.33	83.33
8	100	100	100

AUL will discontinue the charge for the Extra Credit Premium Rider at the end of the fifth contract year for the 3% Extra Credit Premium Rider and at the end of the seventh contract year for the 5% and 6% Extra Credit Premium Riders.

6. If a Contract owner exercises the free look right, his or her Account Value will be adjusted to reflect the recapture of non-vested Credit amounts paid on the Contract, consistent with the vesting schedule above. However, any earnings or loss on the non-vested Credit will be fully vested and considered part of the Account Value. AUL will refund the premium paid in those states where required by law and for individual retirement annuities. In all other cases, the Contract owner bears the investment risk during the period prior to AUL's receipt of request for cancellation. In addition, all or part of the Credit may be recaptured by AUL if the Contract owner makes a withdrawal in the first seven contract years, depending upon the vesting schedule above. Regardless of whether or not the Credit is vested, all gains or losses attributable to the Credit are part of the Contract owner's Contract value and are immediately vested.

7. During the lifetime of the annuitant, at any time before the annuity date and subject to the limitations under any applicable qualified plan and applicable law, a Contract owner may surrender a Contract or take a withdrawal from a Contract. A withdrawal may be requested for a specified percentage or dollar amount of a Contract owner's Account Value. Upon payment, the Contract owner's Account Value will be reduced by an amount equal to the payment, any applicable withdrawal charge, calculated as a percentage of first year premium, and any recapture of non-vested Credit amounts consistent with the vesting schedule above. The withdrawal charge is based on the following schedule:

Contract year	Withdrawal charge percentage
1	7
2	6
3	5
4	4
5	3
6	2
7	1
8	0

An amount withdrawn during a Contract year, referred to as the ''free withdrawal amount,'' will not be subject to an otherwise applicable withdrawal charge. The free withdrawal amount is 12% of Account Value, including any vested and non-vested Credit amounts, at the beginning of the Contract year in which the withdrawal is being made.

8. Applicants state that if a contract owner has not chosen an Extra Credit Premium Rider, AUL will first provide a 12% free withdrawal amount, which is calculated based on the Account Value at the most recent contract anniversary. Any amounts withdrawn in excess of the free withdrawal amount will be assessed a withdrawal charge based on the table above. The withdrawal charge is calculated as a percentage of first year premium not previously withdrawn. After the withdrawal, the first year premium amount upon which a withdrawal charge may be assessed in the future is reduced by the total amount of the withdrawal, which includes the free withdrawal amount.

9. Applicants further state that, if a contract owner has chosen an Extra Credit Premium Rider, AUL will first provide a 12% free withdrawal amount. Next, any amounts withdrawn in excess of the free withdrawal amount will be subject to a recapture of non-vested Credit amounts (see vesting schedule in paragraph 5 above, explaining the ''Extra Credit Premium Rider'') and assessed a withdrawal charge as described above. The credit will be

recaptured in proportion to the amount in excess of the free withdrawal amount.

After the withdrawal, the first year premium amount from which non-vested Credit amounts may be recaptured and upon which a withdrawal charge may be assessed in the future, is reduced by the total amount of the withdrawal, which includes the free withdrawal amount. In other words, while a withdrawal charge will be assessed and credit recaptured only on the amount in excess of the free withdrawal amount, the premium upon which future recaptures and withdrawals may be assessed is reduced by the total amount of the withdrawal. Once the remaining premium is reduced to zero, no further withdrawal charges may be assessed and no further credits may be recaptured, since withdrawal charges and recaptures are based on first year premium, and the first year premium has been exhausted.

10. The Six Year Contract Withdrawal Charge Rider will reduce the withdrawal charge period by two years. The final two years of the withdrawal charge will be dropped, and the withdrawal charges assessed during the previous years are consistent with the Withdrawal Charge schedule listed above. The annual charge for this rider will be initially set at 0.30% of average Value. The 3% optional Extra Credit Premium Rider must be selected with the Six Year Contract Withdrawal Charge Riger. No other Extra Credit Premium Rider is available with this rider.

11. The Long Term Care Facility and Terminal Illness Rider provides a waiver of both withdrawal charges and recapture of Credits if the Extra Premium Rider is selected, on withdrawals that qualify under the Rider. Therefore, under the rider, if a Contract owner is confined for a continuous 90-day period to a long-term care facility or for a 30-day period to a hospital, as defined by the rider provisions, Withdrawal charges will not apply and Credits will not be recaptured, if the Extra Credit Premium Rider is selected. In addition, if the Contract owner has been diagnosed by a physician to have a terminal illness, as defined by the rider, and AUL has received a physician's letter at its home office, no withdrawal charges will be deducted upon withdrawal, and no Credits will be recaptured, if the Extra Credit Premium Rider is chosen. The charge for this benefit is included in the base mortality and expense risk charge.

Applicants' Legal Analysis

1. Section 27(i) of the 1940 Act was added to the Act to implement the purpose of the National Securities Markets Improvement Act of 1996. Section 27(i)(2)(A) of the 1940 Act provides that it shall be unlawful for a separate account or sponsoring insurance company to sell a contract funded by the registered separate account unless such contract is a redeemable security. Section 2(a)(32) defines ''redeemable security'' as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his or her proportionate share of the issuer's current net assets, or the cash equivalent thereof.

2. Applicants assert that the recapture of the Credit in the circumstances set forth in this application would not deprive a Contract owner of his or her proportionate share of the issuer's current net assets. A Contract owner's interest in the Credit allocated to his or her Contract value upon receipt of a contribution is not fully vested until the eighth contract year. Until the right to recapture has expired and any Credit amount is vested, AUL retains the right and interest in the Credit, although not in the earnings attributable to that amount. Thus, Applicants assert, when AUL recaptures any Credit, it is merely retrieving its own assets, and the Contract owner has not been deprived of a proportionate share of the applicable Separate Account's assets because his or her interest in the Credit has not vested.

3. Applicants additionally represent that permitting a Contract owner to retain a Credit under a Contract upon the exercise of the free look provision would not only be unfair, but would also encourage individuals to purchase a Contract with no intention of keeping it and to return it for a quick profit. Furthermore, the recapture of the full amount of Credits applied to premium payments made within the first twelve months after issuance is designed to provide AUL with a measure of protection against anti-selection. The risk here is that, rather than spreading contributions over a number of years, a Contract owner might make very large contributions during the first Contract year, the Credits vest, the Contract owner then returns the Contract and is permitted to keep the Credit amounts, thereby leaving AUL little time to recover the cost of the Credits.

4. For the foregoing reasons, Applicants submit that the provisions for recapture of Credits under the Contracts and other variable annuity contracts that are substantially similar in all material respects to the contracts described in the application, that AUL, its affiliates and successors in interest may issue in the future (''Future Contracts''), do not violate Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act because the recapture would not deprive a Contract owner of his or her proportionate share of the issuer's current net assets.

5. Applicants further assert that a Contract owner's interest in the Credit allocated to his or her Contract value upon receipt of a contribution is not fully vested until the eighth contract year, when the right to recapture has expired and any Credit amount has vested. Until that time, Applicants state, AUL retains the right and interest in the Credit, although not in the earnings attributable to that amount. Thus, when AUL recaptures any Credit, it is merely retrieving its own assets, and the Contract owner has not been deprived of a proportionate share of the applicable Separate Account's assets because his or her interest in the Credit has not vested.

6. In addition Applicants state, permitting a Contract owner to retain a Credit under a Contract upon the exercise of the free look provision would not only be unfair, but would also encourage individuals to purchase a Contract with no intention of keeping it and to return it for a quick profit. On the other hand, Applicants assert, the recapture of the full amount of Credits applied to premium payments made within the first twelve months after issuance is designed to provide AUL with a measure of protection against such anti-selection.

7. Applicants submit that the application of a Credit to premium payments made under the Contracts should not raise any questions as to AUL's compliance with the provisions of Section 27(i). However, to avoid any uncertainty as to full compliance with the 1940 Act, Applicants request an exemption from Section 2(a)(32) and 27(i)(2)(A), to the extent deemed necessary, to permit the recapture of any Credit under the circumstances described in this application without the loss of relief from Section 27 provided by Section 27(i).

8. Rule 22c–1, promulgated under Section 22(c) of the 1940 Act, prohibits a registered investment company issuing any redeemable security from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 22c–1 is intended to avoid the dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price

below net asset value or repurchase at a price above it, and other unfair results, including speculative trading practices.

9. The proposed recapture of the Credit, Applicants assert, does not pose such a threat of dilution, nor does it promote speculative trading practices, calculated to take advantage of backward pricing, the two evils that Rule 22c–1 was intended to eliminate or reduce. To effect a recapture of a Credit, AUL will redeem interests in a Contract at a price determined on the basis of the current accumulation unit value(s) of the Investment Account(s) to which the Contract owner's Contract value is allocated. The amount recaptured will equal the amount of the Credit paid out of AUL's general account assets. Although the Contract owner will be entitled to retain any investment gain attributable to the Credit, the amount of that gain will be determined on the basis of the current accumulation unit values of the applicable Investment Accounts. Thus, Applicants assert, no dilution will occur upon the recapture of the Credit.

10. Applicants argue that because neither of the harms that Rule 22c–1 was meant to address is found in the recapture of the Credit, Rule 22c–1 should not apply to any Credit. However, to avoid any uncertainty as to full compliance with the 1940 Act, Applicants request an exemption from the provision of Rule 22c–1 to the extent deemed necessary to permit them to recapture the Credit under the Contracts and Future Contracts.

11. Applicants submit that their request for an order that applies to the Separate Account and any Future Accounts established by AUL, in connection with the issuance of the Contracts and Future Contracts, is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Applicants further submit that Investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the Act that has not already been addressed in this application. Additionally, Applicants state that requiring Applicants to file additional applications would impair Applicants' ability to take advantage of business opportunities as they arise. Further, if Applicants were required repeatedly to seek exemptive relief with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection thereby. Applicants undertake that Future Contracts funded by the Separate Accounts or by Future Accounts, which seek to rely on the order issued pursuant to this Application, will be substantially similar to the Contracts in all material aspects.

Conclusion

Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons, security or transaction, or any class or classes of persons, securities or transactions, from any provisions of the Act, or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit, for the reasons stated herein, that their exemptive requests meet the standards set out in Section 6(c) and that an order should, therefore, be granted.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–1453 Filed 1–22–03; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47182; File No. SR–GSCC–2002–06]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Imposition of a Fee on Members That Fail To Submit Transaction Data in an Interactive and Timely Manner

January 14, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 12, 2002, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will adjust the trade comparison fees for GSCC members that use GSCC's real time trade matching (''RTTM'') process but do not submit trade data on an interactive and timely basis.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC 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. GSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Since its inception in December 2000, GSCC's RTTM service has grown to encompass an increasing portion of trades that are submitted to GSCC. The expansion of the use of RTTM for government securities, its introduction for mortgage backed securities products (which is scheduled for September 2002), and ultimately its use for other fixed-income products remains GSCC's most significant initiative.

In order to encourage members to shift to interactive processing, GSCC imposed, effective July 1, 2001, a five-cent per side comparison surcharge for non-interactive members.[3] The imposition of this financial incentive and the growing use of interactive messaging in connection with the RTTM service have not, however, ensured that members are submitting transaction data promptly after trade execution.

In order to ensure that members not only participate in the RTTM process but also submit transaction data on a timely basis and in order to cover the cost of batch processing, GSCC is imposing the following new fees (which fees are *in addition* to the normal 50-cent per side comparison fee and *in lieu of* the current five cent per side surcharge):

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] A transaction is considered non-interactive if it is submitted more than one hour after its execution.

1. For members that participate in GSCC's RTTM process using a GSCC Interactive Submission method,[4] there is no charge.
2. For a member that participates in GSCC's RTTM process using multi-batch submissions or submits data to GSCC via terminal: (a) Ten cents per side imposed on all of its comparison activity if at least 80% of its overall activity is submitted to GSCC within one hour of trade execution and (b) 25 cents per side fee imposed on all of its comparison activity if more than 20% of its overall activity is not submitted to GSCC within one hour of trade execution.

The percentage calculations described above will only be applied to data on new activity (*i.e.,* not on cancellations or modifications).

The fees became effective on September 1, 2002, for netting members and on January 1, 2003, for comparison-only members.

GSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder because it involves a change to GSCC's fee structure that will encourage members to move to interactive processing and thereby allow GSCC and its members to achieve important risk management benefits.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have any impact 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

Written comments relating to the proposed rule change have not yet been solicited or received. GSCC will notify the Commission of any written comments received by GSCC.

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)(ii) of the Act[5] and Rule 19b–4(f)(2)[6] thereunder because the proposed rule change is changing a due, fee, or other charge. At any time within sixty 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 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–GSCC–2002–06. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at GSCC's principal office. All submissions should refer to File No. GSCC–2002–06 and should be submitted within February 13, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–1452 Filed 1–22–03; 8:45 am]

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[4] An ''Interactive Submission Method'' (''ISM'') is defined in GSCC's rules as ''a trade submission method that is used to submit data on individual trades to [GSCC] immediately after trade execution pursuant to communication links, formats, timeframes, and deadlines established by [GSCC] for such purpose. The [ISM] includes two different types of submission methods: (i) Computer-to-computer, where the trade is fed to [GSCC's] computer directly from the submitter's computer, and (ii) terminal interface, where the trade is manually entered into [GSCC's] system.

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(f)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Order Granting Application To Strike From Listing and Registration; The International Securities Exchange, Inc. (The Options Clearing Corporation, Call and Put Option Contracts Respecting Certain Underlying Securities) File No. 1–7167

January 16, 2003.

The International Securities Exchange, Inc. (''ISE'' or ''Exchange'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(c) thereunder,[2] to strike from listing and registration on the Exchange the call and put option contracts issued by The Options Clearing Corporation respecting the underlying securities described below.

ISE Rule 503(a) generally provides that, whenever the Exchange determines that an underlying security previously approved for options transactions on the Exchange should no longer be approved, whether because it does not meet the standards for continued approval or for any other reason, the Exchange shall not open any additional options series of that class for trading, and may take steps thereafter to prohibit opening purchase transactions in options series of that class previously opened to the extent it deems such actions appropriate. When an underlying security becomes no longer approved for options transactions, the Exchange may apply to strike the related option contracts from listing and trading once all such option contracts have expired. Under this provision, the ISE has determined to strike from listing and trading the call and put option classes relating to the underlying common stock of the following companies:

EntreMed, Inc. (ENMD)

Interwoven, Inc. (IWOV)

Kmart Corporation (KMRTQ)

The Commission, having considered the facts stated in the ISE's application and having due regard for the public interest and protection of investors, orders that the application be, and it hereby is, granted, effective at the opening of business on January 17, 2003.

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(c).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Jonathan G. Katz,

Secretary.

[FR Doc. 03–1449 Filed 1–22–03; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 4251]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: International Visitor Program Assistance Awards

SUMMARY: The Office of International Visitors of the Division of Professional and Cultural Exchanges, of the Bureau of Educational and Cultural Affairs (ECA/PE/V), United States Department of State (DoS) announces an open competition for assistance awards to develop and implement International Visitor Programs (IVP). The IVP seeks to increase mutual understanding between the U.S. and foreign publics through carefully designed professional programs for approximately 4,600 foreign visitors per year from all regions of the world. The awards will fund programming for a minimum of 100 and a maximum of 550 International Visitors (IVs). Funding will be for FY–2004 (October 1, 2003—September 30, 2004). Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) and not already receiving Office of International Visitor assistance awards for FY–2004 may submit proposals. [See Project Objectives, Goals and Implementation (POGI) for definitions of program-related terminology.]

The intent of this announcement is to provide the opportunity for organizations to develop and implement a variety of programs for International Visitors from multiple regions of the world or from a single region. (Please refer to POGI for breakdown of regions). The award recipients will function as national program agencies (NPAs) and will work closely with Department of State Bureau staff, who will guide them through programmatic, procedural and budgetary issues for the full range of IV programs. (Hereafter, the terms ''award recipient'' and ''national program agency'' will be used interchangeably to refer to the grantee organization(s).)

Program Information

Overview: The International Visitor program seeks to increase mutual understanding between the U.S. and foreign publics through carefully designed professional programs. IV programs support U.S. foreign policy objectives. Participants are current or potential foreign leaders in government, politics, media, education, science, labor relations, NGOs, the arts, and other key fields. They are selected by officers of U.S. embassies overseas and approved by the DoS staff in Washington, DC. Since the program's inception in 1940, there have been more than 140,000 distinguished participants in the program. Almost 200 program alumni subsequently became heads of state or government in their home countries. All IV programs must maintain a non-partisan character.

The Bureau seeks proposals from non-profit organizations for development and implementation of professional programs for Bureau-sponsored International Visitors to the U.S. Once the awards are made, separate proposals will be required for each group project [Single Country (SCP)*, Sub-Regional (SRP)*, Regional (RP)*, and Multi-Regional (MRP)*] as well as less formal proposals for Individual and Individuals Traveling Together (ITT)* programs. At this time proposals are not required for Voluntary Visitor (VolVis)* programs. Each program will be focused on a substantive theme. Some typical IV program themes are: (1) U.S. foreign policy; (2) U.S. government and political system; (3) economic development; (4) education; (5) media; (6) information technology; (7) freedom of information; (8) NGO management; (9) women's issues; (10) tolerance and diversity; (11) counter-terrorism; (12) democracy and human rights; (13) rule of law; (14) international crime; and (15) environmental issues.* IV programs must conform to all Bureau requirements and guidelines. *Please refer to the Program Objectives, Goals, and Implementation (POGI) document for a more detailed description of each type of IV program.

Guidelines: Goals and objectives for each specific IV program will be shared with the award recipients at an appropriate time following the announcement of the assistance awards. DoS will provide close coordination and guidance throughout the duration of the awards. Award recipients will consult closely with the responsible ECA/PE/V Program Officer throughout the development, implementation, and evaluation of each IV program. They should demonstrate the potential to develop the following types of programs.

1. Programs must contain substantive meetings that focus on foreign policy goals and program objectives and are presented by experts. Meetings, site visits, and other program activities should promote dialogue between participants and their U.S. professional counterparts. Programs must be balanced to show different sides of an issue.

2. Most programs will be 21 to 30 days in length and will begin in Washington, D.C., with an orientation and overview of the issues and a central examination of federal policies regarding these issues. Well-paced program itineraries usually include visits to four or five communities. Program itineraries ideally include urban and rural small communities in diverse geographical and cultural regions of the U.S., as appropriate to the program theme.

3. Programs should provide opportunities for participants to experience the diversity of American society and culture. Participants in RPs or MRPs are divided into smaller sub-groups for simultaneous visits to different communities, with subsequent opportunities to share their experiences with the full group once it is reunited.

4. Programs may provide opportunities for the participants to share a meal or similar experience (home hospitality) in the homes of Americans of diverse occupational, age, gender, and ethnic groups. Some individual and group programs might include an opportunity for an overnight stay (home stay) in an American home.

5. Programs should provide opportunities for participants to address student, civic and professional groups in relaxed and informal settings.

6. Participants should have appropriate opportunities for site visits and hands-on experiences that are relevant to program themes. The award recipients may propose professional ''shadowing'' experiences with U.S. professional colleagues for some programs; (A typical shadowing experience means spending a half- or full-workday with a professional counterpart.)

7. Programs should also allow time for participants to reflect on their experiences and, in group programs, to share observations with program colleagues. Participants should have opportunities to visit cultural and tourist sites; and

8. The award recipients must make arrangements for community visits through affiliates of the NCIV. In cities where there is no such council, the award recipients will arrange for coordination of local programs.

[3] 17 CFR 200.30–3(a)(1).

Qualifications

1. Applicants' proposals must demonstrate four years of successful experience in coordinating international exchanges.

2. Applicants' proposals must demonstrate the ability to develop and administer IV programs.

3. Proposals should demonstrate an applicant's broad knowledge of international relations and U.S. foreign policy issues.

4. Proposals should demonstrate an applicant's broad knowledge of the United States and U.S. domestic issues.

5. The award recipients must have a Washington, D.C. presence. Applicants who do not currently have a Washington, DC presence must include a detailed plan in their proposal for establishing such a presence by October 1, 2003. The costs related to establishing such a presence must be borne by the award recipient. No such costs may be included in the budget submission in this proposal. The award recipient must have e-mail capability, access to Internet resources, and the ability to exchange data electronically with all partners involved in the International Visitor program.

6. Proposals should demonstrate that an applicant has an established resource base of programming contacts and the ability to keep the base continuously updated. This resource base should include speakers, thematic specialists, or practitioners in a wide range of professional fields in both the private and public sectors.

7. All proposals must demonstrate sound financial management.

8. All proposals must contain a sound management plan to carry out the volume of work outlined in the Solicitation. This plan should include an appropriate staffing pattern and a work plan/time frame.

9. Applicants must include in their proposal narrative a discussion of ''lessons learned'' from past exchanges coordination experience, and how these will be applied in implementing the International Visitor Program.

10. The award recipients must have the capability to utilize the world wide web for the electronic retrieval of program data from the Department of State's IV program website. The award recipient's office technology must be capable of exchanging information with all partners involved in the International Visitor program. The award recipient must have the capability to electronically communicate with the Department of State's standard data exchange mechanism, the Information Exchange and Management System (IEMS) by utilizing either the IEMS application, which can be provided to the award recipient, or an approved DoS interface with the IEMS where legacy system exists. IEMS is a combination of client/server applications which collect program data from DoS missions for the International Visitor office, stores the data electronically, and enables the national program agencies to download and prepare projects for a visitor's stay in the U.S.

11. Applicants must include as a separate attachment under TAB G of their proposals the following:

a. Samples of at least two schedules for international exchange or training programs that they have coordinated within the past four years that they are particularly proud of and that they feel demonstrate their organization's competence and abilities to conduct the activities outlined in the RFGP;

b. Samples of orientation and evaluation materials used in past international exchange or training programs.

Requirements for Past Performance References

Instead of Letters of Endorsement, DoS will use past performance as an indicator of an applicant's ability to successfully perform the work. TAB E of the proposal must contain between three and five references who may be called upon to discuss recently completed or ongoing work performed for professional exchange programs (may include the IV program). The reference must contain the information outlined below. Please note that the requirements for submission of past performance information also apply to all proposed sub recipients when the total estimated cost of the sub award is over $100,000.

At a minimum, the applicant must provide the following information for each reference:

- Name of the reference organization
- Project name
- Project description
- Performance period of the contract/grant
- Amount of the contract/grant
- Technical contact person and telephone number for referenced organization
- Administrative contact person and telephone number for referenced organization

DoS may contact representatives from the organizations cited in the examples to obtain information on the applicant's past performance. DoS also may obtain past performance information from sources other than those identified by the applicant.

Personnel: Applicants must include complete and current resumes of the key personnel who will be involved in the program management, design and implementation of IV programs. Each resume is limited to two pages per person.

Budget Guidelines

Applicants are required to submit a comprehensive line-item administrative budget in accordance with the instructions in the Solicitation Package (Proposal Submission Instructions.) The submission must include a summary budget and a detailed budget showing all administrative costs. Proposed staffing and costs associated with staffing must be appropriate to the requirements outlined in the RFGP and in the Solicitation Package. Cost sharing is encouraged and should be shown in the budget presentation.

The Department of State is seeking proposals from public and private non-profit organizations that are not already in communication with DoS regarding an FY–2004 assistance award from ECA/PE/V. All applicants must have four years' experience conducting international exchanges; an ability to closely consult with DoS staff throughout program administration; and proven fiscal management integrity. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number: All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/V–04–01.

FOR FURTHER INFORMATION, CONTACT: The Office of International Visitors, Janet B. Beard, Chief, Group Projects Division (ECA/PE/V/P) by e-mail (*jbeard@pd.state.gov*) to request a Solicitation Package or with specific questions. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/*

education/RFGPs. Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on March 31, 2003. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and twelve copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/V–04–01, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Visa Requirements: Programs must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

Adherence to All Regulations Governing the J Visa

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees, program sponsors, and participants to all regulations governing the J visa program status. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR 6Z. If the applicant is a designated Exchange Visitor Program Sponsor the applicant should provide evidence of their compliance with 22 CFR 6Z *et. seq.,* including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

ECA will be responsible for issuing DS–2019 forms to participants in this program. A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 401–9810, Fax: (202) 401–9809.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards or cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Evidence of Understanding/Program Planning:* The proposal should convey that the applicant has a good understanding of the overall goals and objectives of the IV Program. It should exhibit originality, substance, precision, and be responsive to requirements stated in the RFGP and the Solicitation Package. The proposal should contain a detailed and relevant work plan that demonstrates substantive intent and logistical capacity. The plan should adhere to the program overview and guidelines cited in the RFGP.

2. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

3. *Institutional Capacity:* The award recipient must have a Washington, DC presence. Applicants who do not currently have a Washington, DC presence must include a detailed plan in their proposal for establishing such a presence by October 1, 2003. The costs related to establishing such a presence must be borne by the award recipient. No such costs may be included in the budget submission in this proposal. The proposal should clearly demonstrate the applicant's capability for performing the type of work required by the IV Program and how the institution will execute its program activities to meet the goals of the IV program. It should reflect the applicant's ability to design and implement, in a timely and creative manner, professional exchange programs which encompass a variety of project themes. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program goals. Finally, the proposal also must demonstrate that the applicant has or can recruit adequate and well-trained staff.

4. *Institution's Record/Ability:* The proposal should demonstrate an institutional record of a minimum of four years of successful experience in conducting IV or other professional exchange programs, which are similar in nature and magnitude to the scope of work outlined in this solicitation. Note that evidence of success includes responsible fiscal management and full

compliance with all reporting requirements such as those set out for DoS cooperative agreements. The applicant must demonstrate the potential for programming IV participants from multiple regions of the world or from a single region.

5. *Cost-effectiveness/Cost-sharing:* The administrative and indirect cost components of the proposal, including salaries, should be kept as low as possible. Consideration will be given to proposed cost-sharing through other private sector support and institutional direct funding contributions.

6. *Project Evaluation:* Proposals should demonstrate how national program agencies would coordinate with ECA/PE/V program officers on evaluation efforts for IV projects. Examples of methods that could be used are participation of national program agency program officers in the final evaluation sessions of IV projects, and submission of final written reports on those projects to ECA/PE/V.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries* * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations* * *and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to accept proposals in whole or in part and make an award or awards in accordance with what best serves the interests of the International Visitor Program. The Bureau also reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: January 16, 2003.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–1463 Filed 1–22–03; 8:45 am]

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–268]

WTO Dispute Settlement Proceeding Regarding the Sunset Review of the Antidumping Duty Order on Oil Country Tubular Goods From Argentina

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on October 7, 2002, the United States received from Argentina a request for consultations under the Marrakesh Agreement Establishing the World Trade Organization (''WTO Agreement'') regarding the sunset review of the antidumping duty order on oil country tubular goods (''OCTG'') from Argentina. Argentina alleges that the sunset review determinations made by U.S. authorities concerning this product, and certain related matters, are inconsistent with Articles 1,2,3,5,6,11,12 and 18 of the Agreement on Implementation of Article VI of the General Agreements on Tariffs and Trade 1994 (''AD Agreement''), Articles VI and X of the General Agreement on Tariffs and Trade 1994 (''GATT 1994''), and Article XVI:4 of the WTO Agreement. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before February 21, 2003, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR0051@ustr.gov,* or (ii) by mail, to Sandy McKinzy, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, Attn: Argentina Sunset Dispute, with an confirmation copy sent electronically to the address above, or by fax to (202) 395–3640, in accordance with the requirements for submission set out below.

FOR FURTHER INFORMATION CONTACT: William D. Hunter, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395–3582.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (''URAA'') (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding (''DSU''). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by Argentina

With respect to the measures at issue, Argentina's request for consultations refers to the following:

- The final results of the sunset review by the U.S. Department of Commerce (''DOC'') of the antidumping duty order on OCTG from Argentina (65 FR 66701 (November 7, 2000));
- The final determination in the sunset review by the U.S. International Trade Commission (''ITC'') of the antidumping duty order on OCTG from Argentina (USITC Pub. No. 3434 (June 2001));
- The DOC's determination to continue the antidumping duty order on OCTG from Argentina (66 FR 38630 (July 25, 2001));
- Sections 751(c) and 752 of the Tariff Act of 1930, as amended;
- The URAA Statement of Administrative Action, H.R. Doc. No. 103–316, vol. 1 (1994);
- The DOC's Sunset Policy Bulletin (63 FR 18871 (April 16, 1998));
- The DOC's sunset review regulations, 19 CFR § 351.218; and
- The ITC's sunset review regulations, 19 CFR §§ 207.60–69.

With respect to the claims of WTO-inconsistency, Argentina's request for consultations refers to the following:

• The DOC failed to base the initiation of its sunset review on sufficient evidence that the termination of the antidumping duty order would likely lead to a continuation or recurrence of dumping;

• The use by the United States of a de minimis standard of 0.5 percent in a sunset review;

• The DOC's misapplication of the ''likelihood'' standard;

• The U.S. standard for determining whether the termination of antidumping orders would be ''likely'' to lead to the continuation or recurrence of injury;

• The failure by the ITC to conduct an ''objective examination'' of the record and its failure to base its determination of ''positive evidence''; and

• The U.S. statutory requirements that the ITC determine whether injury would be likely to continue or recur ''within a reasonably foreseeable time'' and that the ITC ''shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time''.

Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by U.S. mail, first class, postage prepaid, to Sandy McKinzy at the address listed above, or transmit a copy electronically to *FR0051@ustr.gov,* with ''Argentina Sunset Dispute'' in the subject line. For documents sent by U.S. mail, USTR requests that the submitter provide a confirmation copy, either electronically, to the electronic mail address listed above, or by fax to (202) 395–3640. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files. Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitting person. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide an non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No. WT/DS–268, Argentina Sunset Dispute) may be made by calling the USTR Reading Room at (202) 395–6168. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 03–1529 Filed 1–22–03; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Termination of Review Under 49 U.S.C. 41720 of Delta/Northwest/Continental Agreements

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Termination of review of joint venture agreements.

SUMMARY: As required by 49 U.S.C. 41720, Delta Air Lines, Northwest Airlines, and Continental Airlines submitted code-sharing and frequent-flyer program reciprocity agreements to the Department for review. After analyzing the agreements and conducting an extensive informal investigation, the Department has determined that the agreements, if implemented as presented by the three airlines, could result in a significant adverse impact on airline competition, unless the airlines formally accept and abide by certain conditions that are intended to limit the likelihood of competitive harm. If the airlines choose to implement the agreements without accepting those conditions, the Department will direct its Aviation Enforcement office to institute a formal enforcement proceeding regarding the matter.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366–4731.

SUPPLEMENTARY INFORMATION: On August 23, 2002, as required by 49 U.S.C. 47120, Delta, Northwest, and Continental (''the Alliance Carriers'') submitted code-sharing and frequent-flyer program reciprocity agreements to us for review. That statute requires such agreements between major U.S. airlines to be submitted to us more than 30 days before they are implemented. We may extend that waiting period by up to 150 days for code-sharing agreements and 60 days for other types of agreements. The airline parties to a joint venture agreement may implement the agreement without obtaining our approval once the waiting period has expired.

Our authority to extend the waiting period enables us to conduct an informal investigation and make a preliminary determination as to whether the agreement may unreasonably reduce competition and therefore constitute an unfair method of competition that would violate 49 U.S.C. 41712, formerly section 411 of the Federal Aviation Act.[1] If we determine that an agreement violates section 411, we may bar the airlines from implementing it. Unfair methods of competition include airline agreements and other practices that violate the antitrust laws or antitrust principles. *See United Air Lines* v. *CAB*, 766 F.2d 1101 (7th Cir. 1985). A complaint that an airline practice is an unfair method of competition would be resolved after a hearing before an administrative law judge.

Rather than institute a formal enforcement proceeding, we may also ask the airline parties to make changes to their agreement to address our concerns about the agreement's impact

[1] This notice will refer to the section as section 411, its traditional name.

on airline competition. In an earlier case, we obtained the airline parties' agreement to make such changes in their agreement. In this case, we have proposed conditions to the three airlines that would alleviate our immediate competitive concerns with their proposed alliance. If the Alliance Carriers formally accept these conditions, we would not now need to institute a formal enforcement proceeding to determine whether the airlines' agreements violate section 411.

The Department's Investigation. With particular attention to our statutory responsibilities under 49 U.S.C. 40101, we reviewed the agreements as presented to us under our governing statutes to analyze their likely impact on airline competition if fully implemented. We have given outside parties the opportunity to review unredacted copies of the agreements and to submit comments based on that review and other information available to such commenters. 67 FR 69804 (November 19, 2002). We received written comments from a number of parties, including other U.S. airlines, civic parties, and the American Antitrust Institute. We have reviewed the comments, along with material obtained by us from the three airlines, we have met with the three Alliance Carriers and with parties opposed to their alliance, and we have analyzed the proposed alliance's potential impact on the basis of that material and the data presently available to us.

The proposed agreements, and their potential effects, are unusually complex. To allow sufficient time to complete our analysis, we extended the waiting period as to the code-sharing agreement for a total of 120 days, and we extended the waiting period for the frequent flyer agreement for 60 days. 67 FR 59328 (September 20, 2002); 67 FR 64960 (October 22, 2002); 67 FR 69804 (November 19, 2002); 67 FR 78036 (December 20, 2002). The airlines have not implemented either of those agreements.

In our meetings with the Alliance Carriers, we advised them that the agreements as presented to us raised serious competitive issues. We explained that this proposed alliance presents more serious competitive concerns than did the United/US Airways alliance, which we allowed to take effect subject to conditions imposed independently by the Department of Justice, in carrying out its separate statutory authority responsibilities to enforce the antitrust laws. This proposed alliance is fundamentally different from that presented to us by United/US Airways, because of the much greater overlap between the route systems of these three airlines and their possession of a substantially larger share (approximately 35 percent) of the national airline market. We invited them to propose ways that they could alleviate our concerns. We reviewed their proposals and concluded that they were not adequate. We therefore presented specific comments to the three airlines that were intended to address our primary competitive concerns while preserving the alliance's principal benefits for the traveling public and the airlines. We have had lengthy further discussions with the airlines about the terms of proposed conditions and have considered their concerns. If the Alliance Carriers formally accept and agree to abide by the conditions set forth herein, we would not seek to block their implementation of their alliance agreements at this time.

The conditions we have developed are intended to lessen the likelihood of unlawful collusion, to prevent the three airlines from hoarding airport facilities at their hubs and to make underutilized facilities available to competitors, to address the three airlines' potentially dominant combined market share at many cities and the resulting detrimental effect on entry by competitors and therefore on consumers, and to prevent anti-competitive practices involving joint marketing. We have developed these conditions in furtherance of our statutory responsibilities under 49 U.S.C. 40101 and our authority under section 411 to prevent unfair methods of competition in the airline industry and on the basis of our analysis of the alliance's potential impact on airline competition. Our conditions, designed to address this Department's present concerns under our unique statutory scheme, are in addition to, and independent of, any conditions that may be required by the Department of Justice, pursuant to its separate and distinct statutory authority to enforce the antitrust laws, and its own independent review of the proposed alliance's competitive effects.

Public Policy Background. In carrying out our responsibilities in this matter, we are mindful that Congress has mandated that the Department ''shall consider'' the factors enumerated in section 40101. For purposes of this proceeding, a number of these factors are particularly relevant. We must analyze the potential effects of the Alliance Carriers' proposal in the context of the express statutory goals, among others, of

(9) preventing unfair, deceptive, predatory, or anticompetitive practices in air transportation,

(10) avoiding unreasonable industry concentration, excessive market domination, monopoly powers, and other conditions that would tend to allow at least one air carrier * * * unreasonably to increase prices, reduce services, or exclude competition in air transportation, and

(13) encouraging entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry.[2]

Consistent with these provisions, Congress has charged us with a responsibility to review anti-competitive conduct in the airline industry. This Department's authority under section 411 to prohibit airlines from engaging in unfair methods of competition was intended to supplement, but in no way to supplant or interfere with, the Justice Department's authority to enforce the antitrust laws. As the Supreme Court has stated, ''[S]ection 411 * * * was designed to bolster and strengthen antitrust enforcement.'' *Pan American World Airways* v. *United States*, 371 U.S. 296, 307 (1963).

When Congress deregulated the airline industry in 1978, Congress retained the pre-existing authority of our predecessor agency, the Civil Aeronautics Board, to prevent unfair competition in the airline industry. The Airline Deregulation Act did not reduce or modify the Board's authority to prohibit unfair methods of competition. Similarly, when Congress enacted the Civil Aeronautics Board Sunset Act of 1984, Public Law 98–443, 98 Stat. 1703, it reaffirmed its intent that deregulation must be coupled with the authority to prevent anticompetitive conduct. Section 3 of that statute transferred to this Department the Board's authority to prohibit unfair methods of competition in the airline industry. Congress explained that maintaining that authority was both necessary and consistent with airline deregulation, H.R. Rep. No. 98–793, 98th Cong., 2d Sess. (1984) at 4–5:

> There is also a strong need to preserve the Board's authority under Section 411 to ensure fair competition in air transportation * * *. Although the airline industry has been deregulated, this does not mean that there are no limits to competitive practices.

[2] 49 U.S.C. 40101(a). Congress added these goals to the statutory statement of public policy goals when it enacted the Airline Deregulation Act of 1978, P.L. 95–504, 92 Stat. 1705, 1707 (1978). The statute's public policy goals provide the context for our enforcement of the prohibition against unfair methods of competition in the airline industry. *Pan American World Airways* v. *United States*, 371 U.S. 296, 307–309 (1963).

As is the case with all industry, carriers must not engage in practices which would destroy the framework under which fair competition operates. Air carriers are prohibited, as are firms in other industries, from practices which are inconsistent with the antitrust laws or the somewhat broader prohibitions of Section 411 of the Federal Aviation Act (corresponding to Section 5 of the Federal Trade Commission Act) against unfair competitive practices.

Subsequently, Congress expressly determined that this Department should implement special procedures to ensure that the potential anti-competitive effects of code-share agreements and other joint venture agreements between major airlines are thoroughly analyzed before the agreements may go into effect. Congress implemented that determination by enacting 49 U.S.C. 47120. Congress enacted section 47120 after several announcements of proposed code-share arrangements between major U.S. airlines, including the existing arrangement between Northwest and Continental.[3]

The Airlines' Proposed Relationship. The proposed Delta/Continental/Northwest alliance is a comprehensive marketing arrangement that would involve code-sharing, frequent flyer reciprocity, and reciprocal access to airport lounges. The alliance agreements have a ten-year term. Each airline would put its code on each of its partners' flights to the extent possible given the limited number of available flight numbers. The airline operating the flight would obtain the revenue paid by the passenger. Members of each airline's frequent flyer program could earn award miles and use them on flights operated by the other two airlines. Members of each partner's airport lounge program will have access to the other two airlines' airport lounges. The three airlines would engage in joint marketing programs whereby they would make joint contract proposals to corporate customers to the extent allowed by the antitrust laws and create joint travel agency incentive commission programs.

The three airlines have vigorously asserted that their alliance will benefit consumers by providing on-line services to travellers in markets that now have no on-line service and improved access to frequent flyer programs and airport lounges. They contend that each of them will independently set its own fares and schedules. They assert that they will engage in some discussions on subjects such as flight arrival times, gate locations, and certain other service features in order to provide ''more seamless service.'' Delta, Continental, and Northwest also contend that they have structured their alliance so that they will continue to compete independently. That contention is based primarily on the fact that the ticket price paid by a traveller would go to the operating airline, even if the passenger bought the ticket from a marketing airline. Since the marketing airline does not share in the ticket revenue, that airline assertedly should have an incentive to operate its own flights. In addition, their agreements would not authorize any discussions prohibited by the antitrust laws.

Our Authority under Section 411. Our review of this proposed alliance has been conducted under this Department's unique statutory scheme. Under our governing statutes, any determination that the agreements should be prohibited would be based on a finding that they constituted an unfair method of competition. Section 411 authorizes us to prohibit conduct that does not violate the Sherman Act. See, *e.g.*, *Pan American World Airways* v. *United States*, 371 U.S. 296, 303–308 (1963). As discussed above, our statutory authority under section 411 must be exercised in the context of the mandates to protect the public interest enumerated in 49 U.S.C. 40101.

The leading case on the scope of our authority under section 411 is *United Air Lines* v. *CAB*, 766 F.2d 1107 (7th Cir. 1985) (Posner, J.). This Department inherited from the CAB the same statutory provision that was at issue in that case. In United Air Lines, the Court affirmed the Board's computer reservations system rules notwithstanding the absence of any finding that the systems' practices violated the antitrust laws. The Court held that the Board could nonetheless regulate CRS practices, because the Board ''can forbid anticompetitive practices before they become serious enough to violate the Sherman Act.'' *United Air Lines*, 766 F.2d at 1114.

Competition Analysis. In reviewing the agreements between Delta, Continental, and Northwest, we are mindful that their joint venture relationship will not be the equivalent of a merger, that they do not now intend to significantly integrate their operations, and that each airline has represented that it will independently establish its fare levels and capacity levels in its city-pair markets. We note as well that the fares paid by passengers on flights operated under the code-share arrangement will go to the airline operating the flight, even if the passenger bought the ticket under the other airline's code. This should give each airline some incentive to compete with its partner by operating its own flights.

Nonetheless, based on all the facts presented to us, our independent knowledge of and long experience with the airline industry, and our detailed analysis under our governing statute, the Delta/Continental/Northwest alliance presents serious competitive concerns. It is substantially different from previous alliances between U.S. airlines, both in terms of the combined size of the three partners and the extent of overlap between their route systems.

First, in contrast to earlier alliances, the Delta/Continental/Northwest alliance involves three airlines that together have a large share of the national market. Northwest and Continental together have a national market share of 18 percent as measured by domestic revenue passenger miles, and Delta has 17 percent of the national market. The proposed three-airline alliance would therefore have a national market share of 35 percent. In contrast, the largest of the previous alliances, United/US Airways, resulted in a combined market share of 23 percent, and that share may be expected to decline if the two airlines' financial difficulties ultimately lead to a shrinkage of their route systems.

More significantly, both the existing Continental/Northwest alliance and the recent United/US Airways alliance involved airlines whose route systems overlapped relatively little. In 2001, Continental and Northwest overlapped in 558 markets, accounting for 6.5 million annual passengers. The United/US Airways alliance involved 543 overlapping markets accounting for 15.1 million annual passengers. United has a largely east-west route system, while US Airways has a largely north-south route system along the East Coast. In dramatic contrast, the three alliance partners' services overlap in 3,214 markets accounting for approximately 58 million annual passengers.

Thus, the Delta/Continental/Northwest alliance is not an end-to-end alliance, unlike most of the other domestic and international alliances reviewed by us, which typically have expanded the network of each alliance partner. Contrary to the three airlines' representations regarding new on-line service, Delta's code-share with Continental would give Delta access to only eleven domestic airports not now

[3] Because Northwest and Continental implemented their code-share proposal before the enactment of 49 U.S.C. 47120, the Justice Department reviewed that agreement pursuant to its authority to enforce the antitrust laws. That Department determined that it would not challenge the code-share arrangement if the two airlines complied with certain conditions, but challenged Northwest's simultaneous acquisition of the major block of Continental voting stock.

served by Delta, all of which are small. While Delta's code-share with Northwest would give Delta access to significantly more domestic airports, it appears that the total number of new on-line markets created by the alliance would still account for only 89,530 annual passengers, far less than one-tenth of one percent of all domestic passengers. Thus, the value of the alliance for the partners would come from capturing passengers now traveling on other airlines, rather than the stimulation of traffic in new ''online'' markets. As a result, the proposed alliance would not provide substantial network extension benefits, unlike other domestic alliances.

It also appears that the Delta/Continental/Northwest alliance would create neither substantial operating efficiencies nor substantial cost reductions for the three airlines. The alliance instead would benefit the three partners by increasing their ability to attract passengers away from competing airlines. Their ability to take passengers away from competing airlines would in part result from their improved service, such as an increased ability for travellers to earn frequent flyer awards, and, in part, from the significant advantages created when an airline (or airline alliance) dominates a city.

We recognize that the alliance could benefit a number of travellers. Travellers in some markets will have a greater choice of flights, and the members of the three airlines' frequent flyer programs will gain a greater ability to earn and use frequent flyer awards. Some markets, albeit very small markets, that now have no on-line service could, if the Alliance Carriers choose to code-share in those markets, obtain such service. In analyzing the three carriers' proposal, we must weigh the potential benefits of the alliance against its potential anti-competitive effects. The conditions set forth herein, while not preventing the airlines from implementing their alliance, would attempt to ensure that the alliance provides the benefits that its partners promised to the public. The conditions would attempt to limit the anti-competitive harm that could result from the alliance without interfering with the partners' ability to code-share in most markets, to offer reciprocity to each airline's frequent flyer and airport lounge program members, and to engage in joint marketing efforts in most cities.

In analyzing the alliance's potential impact on airline competition, we have considered the data available to us regarding the Continental/Northwest alliance, which the three airlines contend has caused no discernible competitive harm. We presently believe that that experience does not provide a valid basis for comparison. It appears that the Delta/Continental/Northwest alliance would create far fewer new on-line service opportunities, involve much more overlapping service, and pose a greater danger of collusion than did the Continental/Northwest alliance.

Our decision to allow United and US Airways to proceed with their alliance is not inconsistent in any way with our present view that the Delta/Continental/Northwest alliance presents serious competitive issues. We expressed reservations about the United/US Airways alliance, even though United and US Airways have a significantly smaller share of the national market and their route systems overlap much less than do the route systems of Delta and the existing Northwest/Continental alliance. We allowed United and US Airways to go forward, without imposing conditions additional to those imposed by the Justice Department, based on the airlines' representations that they would continue to compete independently, our analysis of the likelihood that the alliance would reduce competition, and our analysis of the potential public benefits of the alliance. 67 FR 62846 (October 8, 2002). Importantly, we did not find that the United/US Airways alliance would not reduce competition. Instead, we stated: ''At the present time, the material we have reviewed is not sufficient for us to conclude that an enforcement proceeding under 49 U.S.C. 41712 would be warranted.'' 67 FR 62847.

In sum, based on the information provided to us, we presently believe that the Delta/Continental/Northwest alliance proposal raises several serious competitive issues. Consumer access to low fares and adequate service cannot be assured without adequate competition. The goal of maintaining competition requires (i) that the partners continue competing with each other to the maximum extent possible and (ii) that unaffiliated airlines continue serving the three partners' markets or can enter those markets without artificial barriers.

Our concerns with this alliance proposal flow directly from our responsibilities under our unique statutory scheme. We do not seek to protect favored airlines. Competition works when individual competitors find ways to improve their lot relative to others, thus forcing others to respond. The end result is more efficient airlines, better service, lower fares, and economic growth. Here, however, multiple carriers would join forces in many different ways, making it extremely difficult, it appears, for other carriers to respond effectively, and thus forcing those competing carriers to exit some markets. Unaligned carriers could be particularly vulnerable to the unprecedented market power of the Delta/Continental/Northwest alliance, and many could be weakened or cease to exist. Accordingly, we have a number of specific concerns with the alliance, which we would attempt to address through the conditions described below. We would, of course, monitor the alliance's effects on competition, and would retain the power to take further action if necessary.

Potential Collusion. First, the alliance agreements authorize a wide range of discussions between the partners, since the three airlines intend to make their services as seamless as possible. Given the broad nature of the discussions that will be required to implement the alliance, we are concerned that the communications among the carriers may lead to collusion, either tacit or explicit, on such matters as fares and service levels, notwithstanding the partners' representation that they would remain independent competitors. The face-to-face oral discussions of scheduling, use of facilities, and joint pricing proposals to corporate travel departments and travel agencies would provide new opportunities to exchange information that could facilitate tacit collusion to restrain competition. In addition, the airlines' stated goal of harmonizing their service standards, which would strengthen the alliance's ''brand,'' seems likely to dampen the partners' interests in competing with each other on service factors, such as terms of their frequent flyer programs. In order to develop a multi-carrier ''on-line'' seamless service alliance, the partners may reduce the differences in their respective service features; consumers typically use differences in service features, such as frequent flyer program terms, to choose between airlines. Collusion, whether explicit or tacit, harms consumers, because it reduces or eliminates competition and enables firms to charge higher prices or offer poorer service than they would in a competitive market.

Increased Market Presence. The three airlines plan to take advantage of their combined presence at the cities they serve by code-sharing, offering frequent flyer program reciprocity, and making joint offers to corporate customers and travel agencies. This would extend the same types of competitive advantages possessed by the dominant airline in a city to a number of spoke cities, and this may substantially undermine the ability of competing airlines to maintain

service in, or enter, markets served by the alliance partners. That potential harm would result primarily from the combination of the three airlines' increased market presence and the consequent marketing advantages created by their dominance of many markets, rather than because the alliance will enable the partners to offer substantially better service. Historical evidence and analysis support the conclusion that an airline that has a large market share at a city typically has substantial competitive advantages over other airlines that the latter often cannot offset, even by offering lower fares and attractive service features. An airline's possession of a dominant market share in a city, accordingly, will give it some ability to charge supracompetitive fares and to reduce service. *See, e.g.*, U.S. Department of Transportation, Findings and Conclusions on the Economic, Policy, and Legal Issues, *Enforcement Policy Regarding Unfair Exclusionary Conduct in the Air Transportation Industry* (January 17, 2001) at 22–26. This is particularly true at airline hubs, including the hubs operated by the three airlines. The three airlines' proposed alliance would enable them to extend these hub advantages to spoke cities, which could deter new entry and may cause existing competitors to end their services in some markets. The resulting reduction in competition may lead to higher fares and poorer service.

We recognize that the alliance proposed by Delta, Continental, and Northwest would not give any single airline a dominant market share and that the three airlines represent that they will continue to compete independently on fares, capacity, and scheduling. Nonetheless, we believe that at many cities the alliance's impact on the prospects of entry by competing airlines would be substantially equivalent to the impact that a single airline's dominance would have at that city. Indeed, the documents provided to us confirm that the three airlines seek through the alliance to increase their collective market share in ways that would undermine the competitive position of other airlines. They intend to offer joint corporate discount contracts, joint travel agency incentive programs, and, from the traveller's perspective, combine their frequent flyer programs. Their proposed code-sharing would also increase their dominance through the simple fact of multiplying the apparent number of flights offered by each of them. In these respects, the three airlines seek to secure the same competitive advantages of a dominant market share that would accrue to them through a merger.

Joint Marketing. As noted, the three airlines plan to offer corporate customers joint contracts and to offer travel agencies joint incentive programs. In general, the airline that offers the broadest range of services will be the most attractive bidder for a corporation's business, and the airline that operates the most service at a city will offer the most attractive incentive program to travel agencies in that city. An airline that dominates a city typically structures its corporate contracts and travel agency incentive programs in ways that leverage its existing dominant market share to gain an even larger share of the business of the corporate accounts and the bookings of the travel agencies. *See e.g.* General Accounting Office, ''Airline Deregulation: Barriers to Entry Continue to Limit Competition in Several Key Domestic Markets'' (October 1996) at 15–19; U.S. Department of Transportation, Findings and Conclusions on the Economic, Policy, and Legal Issues, *Enforcement Policy Regarding Unfair Exclusionary Conduct in the Air Transportation Industry* (January 17, 2001) at 23–24. If the proposed alliance is implemented, these three airlines could do the same. The partners' joint marketing plans threaten competition in two respects. First, if they make joint offers, they are less likely to compete individually for corporate customers and travel agency patronage. Second, they could leverage their combined market share in ways that preclude any effective competition from unaffiliated airlines. For example, the Alliance Carriers could offer a corporate customer discounts on Northwest's transpacific services only if the customer booked most of its domestic travel on a particular domestic route on Delta rather than on a competing airline. The tying of the partners' services in this way could make it extremely difficult for other airlines, especially those that do not have a worldwide network like that operated by the proposed alliance, to compete.

Airport Facilities. The alliance partners have represented that they plan to consolidate their operations at airports when doing so would be feasible, a step which could free a number of gates for use by others. Opposing parties have expressed a concern that the Alliance Carriers would not make underutilized gates available to competitors and would instead ''hoard'' gates at airports where other facilities for new service are not obtainable. Airlines cannot enter new markets or increase service in existing markets if they cannot obtain access to the necessary airport facilities. Facilities are presently unobtainable at a number of important airports, such as Boston. The alliance partners may have an incentive and the ability to ''hoard'' their existing facilities or terminate their competitors' use of subleased facilities at airports where gates are otherwise unobtainable to reduce competition. Such actions could worsen a situation that already exists, resulting ultimately in higher fares and less service for consumers.

CRS Displays. If the Alliance Carriers fully implemented their proposed code-sharing agreement, each of their flights could be listed three times in the displays offered to travel agents by most of the computer reservations systems (''CRSs''). Multiple listings of the same number of physical flights would move many of the services offered by other airlines to later CRS display screens, with the likely result that many travel agents would not find and book those services. The multiple listings of the same physical flights under the codes of all three partners could thus, by itself, have the effect of reducing the number of bookings obtained by competitors from travel agents using a CRS, without any actual improvement in capacity or reduction in price. In some markets, that phenomenon could undermine a competitor's ability to maintain any service at all. Similar concerns have caused us to consider, in a presently pending proceeding, amending our CRS rules to limit the number of times any flight can be displayed under different airline codes. 67 FR 69366, 69396–69397 (November 15, 2002). The European Union's CRS rules allow a single service to be displayed under no more than two codes, even if more than two airlines sell seats on the service under their codes. 67 FR 69397.

Proposed Conditions. Utilizing all of the information presently available to us, we have conducted an independent analysis of the proposed alliance under our unique statutory authority. As noted earlier, as a result of that analysis, we presently believe that unless the Alliance Carriers formally accept and agree to certain conditions, the proposed alliance poses a serious danger to competition. The conditions discussed herein would not affect the operation of the existing Northwest/Continental alliance. We have developed them, after careful and thorough consideration of all of the relevant issues, in an attempt to alleviate the competitive concerns raised by the Delta/Continental/Northwest alliance without the need for

formal enforcement action. We would not now take enforcement action against the three airlines' implementation of the alliance if they formally agreed to the conditions. If the three airlines do not promptly notify us of their agreement to accept the conditions set forth herein, we will direct our Aviation Enforcement office to institute a formal enforcement proceeding to determine whether the airlines' agreements constitute unfair methods of competition in violation of section 411 and, if so, what remedies would be required.

We have developed six conditions, after considering the three airlines' responses to our stated concerns. For convenience, our conditions are set forth below, along with a short summary of the basis for each of them:

1. The following condition is intended to reduce the possibility of collusion that would be inconsistent with 49 U.S.C. 40101 or unlawful under 49 U.S.C. 41712:

Steering Committee: The Alliance Carriers shall not establish the Steering Committee as defined in Section 10.1 of the Marketing Agreement.[4] The Alliance Carriers shall not coordinate or agree upon pricing, scheduling (except for minor schedule adjustments to existing schedules to improve connectivity), capacity, route entry or exit, revenue/inventory management, frequent flyer terms, or upon any other matter as to which an agreement among competitors would be inconsistent with 49 U.S.C. 40101 or unlawful under 49 U.S.C. 41712. To ensure compliance with those sections, counsel shall monitor any communications concerning the above-specified topics. Monitoring by counsel shall not confer attorney-client privilege upon such communications. The Alliance Carriers shall maintain written records of all such communications among themselves regarding the Marketing Agreement and shall retain them until one year after the Marketing Agreement's termination.

2. The following condition is intended to implement the Alliance Carriers' agreement to release ''Surplus Gates'' and reduce the possibility that the Marketing Agreement will impede competition due to ''hoarding'' underutilized facilities at certain congested airports:

Airport Facilities: The Alliance Carriers agree that due to co-location the following gates, along with related facilities (including overnight positions), shall be released to the airport sponsor upon its request for lease to domestic non-Alliance Carriers or for common use: (a) Four gates at IAH, (b) two gates at DTW, (c) five gates at CVG, and (d) two gates at DFW. Additionally, if the Alliance Carriers choose to implement any provision of the Marketing Agreement at any of the hub airports[5] of any Alliance Carrier or Boston (BOS), each Alliance Carrier agrees to maintain records of daily gate usage at those airports and to retain those records until one year after the termination of the Marketing Agreement. Notwithstanding any lease provision to the contrary, the Alliance Carriers further agree to release, within sixty (60) days of request by an airport sponsor at an airport that does not have a gate available for use on reasonable and competitive terms, any underutilized leased gate, along with related facilities (including overnight positions) but excluding gates used only for international flights, for use by a domestic non-Alliance Carrier or for common-use. A gate is underutilized if it is used less than an average of six turns per day during any two consecutive calendar months. Subleases to non-Alliance Carriers shall not be cancelled to release gates under this condition. No Alliance Carrier shall be required to release an underutilized leased gate pursuant to this condition if it will be required to continue to pay rentals or charges to the airport sponsor for the gate. This condition shall not apply if a gate is underutilized due to an event of force majeure.[6]

3. The following condition is intended to ensure that the Alliance Carriers implement their representations of consumer benefits due to on-line service expansion:

Codesharing: As referenced in the Marketing Agreement, Domestic, Canadian, and Caribbean codesharing shall be limited to six hundred fifty (650) flights per two-carrier combination for a total of twenty-six hundred (2,600) flights. Not less than twenty-five percent (25%) of each marketing carrier's new codeshare flights must be to or from airports the carrier and its regional affiliates either did not directly serve or served with no more than three daily roundtrip flights as of August 2002. An additional thirty-five percent (35%) of each marketing carrier's new codeshare flights must either meet the above requirement or be to or from small hub and non-hub airports.[7] Beginning one year after the commencement of codeshare operations, any Alliance Carrier may request review of this condition. The Department will exercise its best efforts to complete the review within sixty (60) days following receipt from the Alliance Carriers of the information necessary to complete its review. Any request for modification shall not constitute a new agreement for the purposes of 49 U.S.C. 41720.

4. The following condition is intended to encourage continued independent competition and reduce the possibility of joint marketing arrangements that reduce competition:

Joint Corporate and Travel Agency Contracts: If the Alliance Carriers wish to offer joint bids to corporations or travel agencies, the corporation or travel agency shall be given the option of dealing with each Alliance Carrier separately or of receiving a joint bid from two or more of the Alliance Carriers. Only after the corporation or travel agency has requested a joint bid in writing shall such a bid be developed and submitted. In addition, the Alliance Carriers shall not offer a joint bid to any corporation or travel agency that has a principal place of business or headquarters in a city[8] where all three carriers (themselves or through regional affiliates) operate scheduled service and their combined market share[9] exceeds fifty percent as of the August prior to the offering of the joint bid. In any joint bid, the Alliance Carriers shall not make the contractual discounted fares or commissions dependent on satisfaction of minimum purchase or booking requirements, whether based on threshold or percentage, for specific domestic markets or for domestic services offered by one of the Alliance Carriers. This condition shall not apply to joint bids involving only Northwest and Continental.

5. The following condition is designed to limit the potential anti-competitive effects of multiple listings of one service under different codes, *i.e.* CRS ''screen clutter,'' while that issue is under active review in the Department's CRS rulemaking proceeding. At the conclusion of the proceeding, the same CRS rules applicable to all other codeshare arrangements would be applicable to this codeshare agreement as well:

CRS Displays: In the current CRS rulemaking the Department is soliciting comments on whether it should limit the number of times that codeshare services are displayed (67 FR 69396–97). The European Union CRS rules limit the number of codes displayed on a flight and CRSs operating in EU member states must comply with that limit. The Alliance Carriers shall make a good faith request in writing to each CRS that the CRS, during the pendency of the CRS rulemaking, not display an Alliance Carrier's service under more than two codes in any integrated display offered by the CRS. The requests and any responses thereto shall be submitted to the Department by the Alliance Carriers.

6. The following condition is intended to limit the duration of the potential anti-competitive effects of the exclusivity clauses of the Marketing Agreement to its proposed term:

[4] For the purposes of these conditions, the term ''Marketing Agreement'' includes all of the exhibits to the Marketing Agreement.

[5] For the purposes of this condition, ''hub airports'' are defined as Atlanta (ATL), Cincinnati (CVG), Cleveland (CLE), Dallas/Ft. Worth (DFW), Detroit (DTW), Houston (IAH), Memphis (MEM), Minneapolis/St. Paul (MSP), Newark (EWR), and Salt Lake City (SLC).

[6] For the purposes of this agreement, an ''event of force majeure'' is defined as follows: Acts of God; fire; damage to or destruction of aircraft or other flight equipment; riots or civil commotion; strikes, lockouts or labor disputes (whether resulting from disputes between the carrier and its employees or between other parties); U.S. military or airlift emergency or substantially expanded U.S. military airlift requirements as determined by the U.S. government; activation of the U.S. Civil Reserve Air Fleet; war or hazards or dangers incident to a state of war; acts of terrorism; or any other acts, matters or things, whether or not of a similar nature, which are beyond the control of the carrier and which shall directly or indirectly, prevent, delay, interrupt, or otherwise adversely affect the furnishing, operation or performance of a carrier; provided, however, that the carrier so affected shall take all commercially reasonable steps to cure such nonperformance or delay.

[7] For the purposes of this notice, ''small hub'' and ''non-hub'' airports are defined by the Airport Activity Statistics published by the Department of Transportation, Bureau of Transportation Statistics.

[8] For the purposes of this agreement, ''city'' is defined as a primary metropolitan statistical area.

[9] For the purposes of this agreement, ''market share'' is determined by scheduled departing seats on domestic flights.

Exclusivity Provisions: After the termination of the Marketing Agreement, no Alliance Carrier shall attempt to enforce any provision of the Marketing Agreement that would restrict any other Alliance Carrier from entering into an international or domestic marketing relationship with any other carrier.

Conclusion. If we are notified promptly that the three carriers agree to implement the alliance subject to the conditions set forth above, we would not now institute an enforcement case under our governing statute. Given our strong concern that the agreements could have anti-competitive results, however, we would continue to monitor closely the implementation of the agreements. We, of course, reserve the right, if we obtain evidence that leads us to believe that the joint venture is adversely affecting competition, to refer the matter for enforcement action. Further, if the three airlines at any time decide that they will no longer comply with a formal agreement accepting our conditions, they will have created a new agreement that must be submitted to us under 49 U.S.C. 41720, subject to all of the provisions of the statute, including the prescribed waiting period. Under our established interpretation of 49 U.S.C. 47120, the same will be true if they materially modify the terms of the agreements submitted by them on August 23.

Issued in Washington, DC on January 17, 2003.

Read C. Van de Water,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 03–1528 Filed 1–17–03; 2:20 pm]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending January 10, 2003

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2003–14203.

Date Filed: January 6, 2003.

Parties: Members of the International Air Transport Association.

Subject: PTC COMP Fares 0273 dated December 17, 2002, TC12/TC123 North Atlantic—Resolution 015n—USA Add-on Amounts. Report—PTC COMP 990 dated December 20, 2002. Intended effective date: February 1, 2003.

Docket Number: OST–2003–14208.

Date: Filed January 6, 2003.

Parties: Members of the International Air Transport Association.

Subject: Mail Vote 257, PTC23 ME–TC3 0163 dated December 23, 2002, Resolution 010m, TC23/TC123 Middle East–TC3, Special Passenger Amending Resolution between China (excluding Hong Kong SAR and Macao SAR) and points in the Middle East. Intended effective date: January 15, 2003.

Dorothy Y. Beard,

Chief, Docket Operations & Media Management, Federal Register Liaison.

[FR Doc. 03–1480 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Motor Vehicles; Alternative Fuel Vehicle (AFV) Report

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Availability—Fleet (AFV) Report.

SUMMARY: In accordance with the Energy Policy Act of 1992 (EPAct) (42 U.S.C. 13211–13219) as amended by the Energy Conservation Reauthorization Act of 1998 (Pub. L. 105–388), and E.O. 13149, ''Greening the Government Through Federal Fleet and Transportation Efficiency,'' the Department of Transportation's annual alternative fuel vehicle reports are available on the following Department of Transportation Web site: *http://osam.ost.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kurt T. Ettenger, Departmental Fleet Manager, Office of Security and Administrative Management, 400 7th Street SW., Washington, DC 20590; telephone (202) 366–2093.

Dated: January 15, 2003.

Richard Pemberton,

Associate Director, Office of Security and Administrative Management.

[FR Doc. 03–1481 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

Maritime Administration

[USCG–2003–14294]

El Paso Energy Bridge Gulf of Mexico, LLC Deepwater Port License Application

AGENCY: Coast Guard, DOT. Maritime Administration, DOT.

ACTION: Notice of application.

SUMMARY: The Coast Guard and the Maritime Administration (MARAD) give notice, as required by the Deepwater Port Act of 1974, as amended, that they have received an application for the licensing of a deepwater port, and that the application appears to contain the required information. The notice summarizes the applicant's plans and the procedures we will follow in considering the application.

DATES: Any public hearing held in connection with this application must be held not later than September 22, 2003. The application will be approved or denied within 90 days after the last public hearing held on the application.

ADDRESSES: The mailing address for the clerk in this proceeding is: Commandant (G–M), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001. Public docket USCG–2003–14294 is maintained by the Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. The Docket Management Facility office maintains a Web site, *http://dms.dot.gov,* and can be reached by telephone at 202–366–9329 or fax at 202–493–2251.

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 the Department of Transportation'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.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice call Robert Nelson, U.S. Coast Guard, (202) 267–0496, *rnelson@comdt.uscg.mil.*

SUPPLEMENTARY INFORMATION: *Receipt of application; determination.* On December 20, 2002, the Coast Guard and MARAD received an application from El Paso Energy Bridge Gulf of Mexico LLC,

1001 Louisiana Street, Houston, Texas 77002 for all Federal authorizations required for a license to own, construct and operate a deepwater port off the coast of Louisiana. On January 14, 2003, we determined that the application appears to contain all required information. The application and related documentation supplied by the applicant (except for certain protected information specified in 33 U.S.C. 1513) may be viewed in the public docket (see **ADDRESSES**).

Background. According to the Deepwater Port Act of 1974, as amended (the Act, 33 U.S.C. 1501 *et seq.*), a deepwater port is a fixed or floating manmade structure other than a vessel, or a group of structures, located beyond the territorial sea and off the coast of the U.S., used or intended for use as a port or terminal for the transportation, storage, and further handling of oil for transportation to any State. The Act was most recently amended by the Maritime Transportation Security Act of 2002 (MTSA, Pub. L. 107–295), which extends the deepwater port definition to include natural gas facilities.

A deepwater port must be licensed, and the Act provides that a license applicant submit detailed plans for its facility to the Secretary of Transportation, along with its application. The Secretary has delegated the processing of deepwater port applications to the Coast Guard and MARAD. The Act allows 21 days following receipt of the application to determine if it contains all required information. If it does, we must publish a notice of application in the **Federal Register** and summarize the plans. This notice is intended to meet those requirements of the Act and to provide general information about the procedure that will be followed in considering the application.

Application procedure. We consider the application on its merits. Under the Act, we have 240 days from the date this notice is published to hold at least one public hearing, which is your opportunity to submit written or oral comment on the application. We will publish a separate **Federal Register** notice to notify you of any hearing we decide to hold. At least one hearing must be held in each adjacent coastal state. Pursuant to 33 U.S.C. 1508, we designate Louisiana as an adjacent coastal state. Other states may apply for adjacent coastal state status in accordance with 33 U.S.C. 1508(a)(2). After the last public hearing, Federal agencies have 45 days in which to comment to us on the application, and approval or denial of the application must follow within 90 days after the last public hearing. Details of the application process are described in 33 U.S.C. 1504 and in 33 CFR part 148.

The present application involves a proposed liquefied natural gas (LNG) facility. As such, MTSA excepts the application from the restrictions of 33 U.S.C. 1504(d)(1)–(3) and 33 U.S.C. 1504(i)(1)–(3). While this permits submission and consideration of competing applications for the same ''application area'', there may still be practical restrictions from a navigation safety standpoint with regard to the proximity of multiple deepwater ports.

We will review the application under the current deepwater port regulations published in 33 CFR part 148. On May 30, 2002 (67 FR 37920) the Coast Guard published a Notice of Proposed Rulemaking (NPRM) indicating its intent to revise those regulations. Public comments have been received in response to the NPRM and we will consider those comments prior to adopting revised regulations. In addition, MTSA mandates that we revise existing deepwater port regulations as soon as practicable to implement extension of deepwater port regulations to natural gas. It also allows for the issuance of an interim final rule without public notice and comment. Thus, the current regulations may be amended before we have fully processed the application. In that event, the amended regulations will govern further processing of the application as soon as they take effect.

Summary of the application. El Paso Energy Bridge Gulf of Mexico, LLC (Energy Bridge GOM) proposes to locate, construct and operate the Deepwater Port on Block 603, West Cameron Area, South Addition, which has been leased from the Minerals Management Service (MMS) for this project.

The Deepwater Port will consist of a Submerged Turret Loading (STL) system that is comprised of a submerged turret buoy; chains, lines and anchors; a flexible riser; and a subsea manifold. Other components of the Deepwater Port will include approximately 1.93 miles of 20-inch pipeline; a small meter platform and risers; a 20-inch diameter pipeline approximately 3.96 miles in length that will extend from the meter platform to Sea Robin Pipeline Company (Sea Robin), an offshore natural gas pipeline subject to the Federal Energy Regulatory Commission's (FERC) Natural Gas Act (NGA) jurisdiction; and a separate 20-inch diameter pipeline approximately 1.38 miles in length that will extend from the meter platform to a section of pipe that will interconnect to an offshore natural gas pipeline system commonly referred to as the Blue Water system. This system is owned in part by Tennessee Gas Pipeline Company and in part by Columbia Gulf Transmission Company, another interstate pipeline subject to the FERC's NGA jurisdiction. The natural gas transported by Sea Robin and Blue Water will come ashore at the Louisiana coast.

The Deepwater Port will be used to deliver to onshore markets natural gas derived from the regasified LNG that will be received from sources worldwide. The gas to be transported through the Deepwater Port will be owned by Deepwater Energy L.P., (Deepwater Energy) an affiliate of Energy Bridge GOM. Deepwater Energy will utilize the entire capacity of the Deepwater Port.

Gas will be delivered to the Deepwater Port by conventional LNG vessels, which incorporate shipboard regasification capabilities. The vessels will operate in foreign commerce and be leased to affiliates of Energy Bridge GOM. The vessels that will be used to deliver natural gas to the Deepwater Port will have a capacity to hold 138,000 cubic meters of LNG and will regasify the LNG onboard at the point of delivery to the Deepwater Port so that imports will consist of gas in its vaporous state, rather than in a liquefied state. Each 138,000 cubic meter LNG vessel will deliver approximately 2.9 billion cubic feet (BCF) of natural gas through the Deepwater Port. The first El Paso Energy Bridge vessel (EPEBV) will be available to commence service by November of 2004. Each vessel will have fully-integrated regasification facilities on-board, using the same type of proven regasification technology that is used in land-based regasification terminals. Each EPEBV will also have the alternate capability to deliver LNG to conventional onshore regasification terminals in the same manner as existing LNG vessels.

When an EPEBV reaches the location of the Deepwater Port, it will retrieve and connect to the STL system. For that purpose, a winch located on the vessel will raise the submerged buoy from its subsurface location, where it is located when not connected to an EPEBV. The buoy will be drawn into an opening in the hull of the vessel. After it is secured to the EPEBV, the buoy will serve both as the mooring system for the vessel and as the offloading mechanism for transferring the natural gas. After the buoy is attached to the vessel and all start-up prerequisites are satisfied, the on-board LNG regasification process will commence. The gas is then discharged through the buoy into the subsea flexible riser. The gas will move

from the riser to a pipeline and manifold (PLEM) after which the gas will be delivered into a twenty-inch diameter pipeline to be constructed by Energy Bridge GOM. The gas will travel for approximately 1.93 miles through the pipeline. At the end of that pipeline, the gas will be delivered to a small metering platform, constructed by Energy Bridge GOM, where the gas will flow through one of two gas measurement meters, one measuring gas destined for the Sea Robin system and a second measuring gas to be delivered to the Blue Water system. After metering, the gas pressure will be reduced by regulators on the platform so that the gas can enter either the Sea Robin or Blue Water system at the pressure prescribed by the operators for each of those systems. Natural gas delivered to the Sea Robin system will be transported through a 3.96 mile pipeline, while natural gas delivered to the Blue Water system will be transported through a 1.38 mile pipeline. The pipeline extending to the Sea Robin system will cross portions of West Cameron Blocks 602 and 601 and will interconnect with Sea Robin on East Cameron Block 335. The second pipeline from the platform will cross a portion of West Cameron Block 600 and will interconnect with the Blue Water system on West Cameron Block 601.

Dated: January 15, 2003.

L.L. Hereth,

Rear Admiral, Coast Guard, Acting Assistant Commandant for Marine Safety, Security and Environmental Protection.

Raymond R. Barberesi,

Director, Office of Ports and Domestic Shipping, U.S. Maritime Administration.

[FR Doc. 03–1486 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Establish an Air Tour Management Plan and Notice of Public Meeting for Haleakala National Park

AGENCY: Federal Aviation Administration (FAA).

ACTION: Notice.

SUMMARY: The FAA, in cooperation with the NPS, is initiating development of an Air Tour Management Plan (ATMP) for the Haleakala National Park pursuant to the National Parks Air Tour Management Act of 2000 (Public Law 106–181) and its implementing regulations contained in title 14, Code of Federal Regulations, part 136, *National Parks Air Tour Management,* published October 25, 2002 (67 FR 65662). The objective of the ATMP is to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and abutting tribal lands, of the Haleakala National Park. Following a Federal rulemaking action, the ATMP will be incorporated into part 136. This notice provides information on the Public Information Workshop for all persons having an interest in Haleakala National Park.

DATES: The Public Information Workshop will be held February 26, 2003, at 6 p.m.

ADDRESSES: The Public Information Workshop will be held at the Pukalani Community Center, 91 Pukalani Street, Pukalani, Hawaii.

FOR FURTHER INFORMATION CONTACT: Brian Armstrong, Air Tour Management Plan Program Manager, Executive Resource Staff, AWP–4, Federal Aviation Administration, Western-Pacific Region. Mailing address: P.O. Box 92007, Los Angeles, California 90009–2007. Telephone: (310) 725–3818. Street address: 15000 Aviation Boulevard, Hawthorne, California 90261. Email: *Brian.Armstrong@faa.gov.*

SUPLEMENTARY INFORMATION The FAA, in cooperation with the NPS, is initiating development of an Air Tour Management Plan (ATMP) for the Haleakala National Park pursuant to the National Parks Air Tour Management Act of 2000 (Public Law 106–181) and its implementing regulations contained in title 14, Code of Federal Regulations, part 136, *National Parks Air Tour Management,* published October 25, 2002 (67 FR 65662). The objective of the ATMP is to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and abutting tribal lands, of the Haleakala National Park. Following a Federal rulemaking action, the ATMP will be incorporated into part 136.

In developing the ATMP and associated rulemaking actions, the Federal Aviation Administration (FAA) and National Park Service (NPS) are required to comply with the National Environmental Policy Act of 1970 (NEPA), which calls on Federal agencies to consider environmental issues as part of their decision making process. For the purposes of compliance with NEPA, the FAA is the Lead Agency and the NPS is a Cooperating Agency. An Environmental Assessment will be prepared for the ATMP in accordance with NEPA and its implementing regulations (40 CFR parts 1500–1508).

Interested individuals, groups, and other members of the public are invited to attend a Public Information Workshop to be held on February 26, 2003, at 6 p.m. The workshop will consist of brief presentations by the FAA, the NPS, and the Acoustical Department of the VOLPE National Transportation Center beginning at 6 p.m. These presentations will conclude by approximately 7 p.m. Following the presentations, attendees may browse displays, collect information, talk with FAA and NPS officials, discuss concerns, and register to receive further information regarding development of the Haleakala National Park ATMP.

This is a public information workshop only. Public testimony or comments will not be formally recorded at this time. A public scoping period, during which public comments will be formally received, will be held at a later time in compliance with the procedures established under NEPA. The scoping period will be announced through the **Federal Register**, local media, the Internet, and direct mailings to interested parties known to the FAA and the NPS.

Additional information on the ATMP Program is available on the FAA's ATMP Website located at *www.atmp.faa.gov.* Interested parties may register to receive information regarding the development of this and other ATMPs through this website.

Issued in Hawthorne, California on January 16, 2003.

Brian Q. Armstrong,

Air Tour Management Plan, Program Manager, AWP–4, Western-Pacific Region.

[FR Doc. 03–1531 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Establish an Air Tour Management Plan and Notice of Public Meeting for Hawaii Volcanoes National Park

AGENCY: Federal Aviation Administration (FAA).

ACTION: Notice.

SUMMARY: The FAA, in cooperation with the NPS, is initiating development of an Air Tour Management Plan (ATMP) for the Hawaii Volcanoes National Park pursuant to the National Parks Air Tour Management Act of 2000 (Public Law 106–181) and its implementing regulations contained in title 14, Code

of Federal Regulations, part 136, National Parks Air Tour Management, published October 25, 2002 (67 FR 65662). The objective of the ATMP is to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and abutting tribal lands, of the Hawaii Volcanoes National Park. Following a Federal rulemaking action, the ATMP will be incorporated into part 136. This notice provides information on the Public Information Workshop for all persons having an interest in Hawaii Volcanoes National Park.

DATES: The Public Information Workshop will be held February 24, 2003, at 5:30 p.m.

ADDRESSES: The Public Information Workshop will be held at the Cooper Center, 19–4030 Wright Road, Volcano, Hawaii.

FOR FURTHER INFORMATION CONTACT: Brian Armstrong, Air Tour Management Plan Program Manager, Executive Resource Staff, AWP–4, Federal Aviation Administration, Western-Pacific Region. Mailing address: P.O. Box 92007, Los Angeles, California 90009–2007. Telephone: (310) 725–3818. Street address: 15000 Aviation Boulevard, Hawthorne, California 90261. Email: *Brian.Armstrong@faa.gov.*

SUPLEMENTARY INFORMATION: The FAA, in cooperation with the NPS, is initiating development of an Air Tour Management Plan (ATMP) for the Hawaii Volcanoes National Park pursuant to the National Parks Air Tour Management Act of 2000 (Pub. L. 106–181) and its implementing regulations contained in title 14, Code of Federal Regulations, part 136, National Parks Air Tour Management, published October 25, 2002 (67 FR 65662). The objective of the ATMP is to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and abutting tribal lands, of the Hawaii Volcanoes National Park. Following a Federal rulemaking action, the ATMP will be incorporated into part 136.

In developing the ATMP and associated rulemaking actions, the Federal Aviation Administration (FAA) and National Park Service (NPS) are required to comply with the National Environmental Policy Act of 1970 (NEPA), which calls on Federal agencies to consider environmental issues as part of their decision making process. For the purposes of compliance with NEPA, the FAA is the Lead Agency and the NPS is a Cooperating Agency. An Environmental Assessment will be prepared for the ATMP in accordance with NEPA and its implementing regulations (40 CFR parts 1500–1508).

Interested individuals, groups, and other members of the public are invited to attend a Public Information Workshop to be held on February 24, 2003, at 5:30 p.m. The workshop will consist of brief presentations by the FAA, the NPS, and the Acoustical Department of the VOLPE National Transportation Center beginning at 5:30 p.m. These presentations will conclude by approximately 6:30 p.m. Following the presentations, attendees may browse displays, collect information, talk with FAA and NPS officials, discuss concerns, and register to receive further information regarding development of the Hawaii Volcanoes National Park ATMP.

This is a public information workshop only. Public testimony or comments will not be formally recorded at this time. A public scoping period, during which public comments will be formally received, will be held at a later time in compliance with the procedures established under NEPA. The scoping period will be announced through the **Federal Register**, local media, the Internet, and direct mailings to interested parties known to the FAA and the NPS.

Additional information on the ATMP Program is available on the FAA's ATMP Website located at *www.atmp.faa.gov.* Interested parties may register to receive information regarding the development of this and other ATMPs through this website.

Issued in Hawthorne, California on January 16, 2003.

Brian Q. Armstrong,

Air Tour Management Plan, Program Manager, AWP–4, Western-Pacific Region.

[FR Doc. 03–1530 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Object Oriented Technology in Aviation Workshop #2

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA issues this notice to advise the public of the second joint FAA/NASA workshop to discuss Object Oriented Technology (OOT) in Aviation. This notice announces the dates, times, location, and registration information for the workshop.

DATES: The workshop is scheduled for March 25th through March 27th, 2003, starting at 8:30 a.m., and ending at 5 p.m. daily, except for the last day when the workshop will end at 12:30 p.m.

ADDRESSES: The workshop will be held at the Sheraton Norfolk Waterside Hotel, 777 Waterside Drive, Norfolk, VA, 23510 USA, Telephone (757) 622–6664.

FOR FURTHER INFORMATION CONTACT: Kelly Hayhurst, NASA Langley Research Center; e-mail *k.j.hayhurst@larc.nasa.gov;* telephone (757) 864–6215; Website *http://shemesh.larc.nasa.gov/foot/.*

SUPPLEMENTARY INFORMATION: The agenda for the workshop includes:

- Opening session (welcome and workshop overview, workshop vision).
- Overview of OOT Handbook and general issues.
- Breakout sessions covering:

—Single inheritance and dynamic dispatch;
—Tools;
—Reuse and dead/deactivated code;
—Overloading;
—Type Conversion;
—Templates;
—Inlining;
—Traceability;
—Multiple inheritance;
—General OOT Issues and other considerations.

- Discussion of breakout session results.
- Closing session (future activities, adjournment).

This workshop is open to anyone interested in OOT issues related to developing or approving aviation software products that comply with RTCA Document No. RTCA/DO–178B, *Software Considerations in Airborne Systems and Equipment Certification.* Attendees wishing to submit comments concerning OOT issues should forward them to the named person listed under **FOR FURTHER INFORMATION CONTACT.**

Workshop Registration fee is $100 (USD) if paid by February 28, 2003 and $300 (USD) if paid after that date. Use the following web-site to make your reservations and to obtain additional details pertaining to the workshop: *http://shemesh.larc.nasa.gov/foot/.* Note that the registration fee includes an evening reception on March 25, as well as a continental breakfast, and refreshments during the morning and afternoon breaks each day of the workshop.

A block of rooms are reserved at the Sheraton Norfolk Waterside Hotel, 777 Waterside Drive, Norfolk, VA, 23510 USA, Telephone (757) 622–6664 or central reservations number (800) 325–

3535, at a special rate of $55 (USD) plus taxes per night. To receive the special rate, you must make your reservations by March 7, 2003, and state that you are attending the ''Object Oriented Technology Workshop.''

Issued in Washington, DC on January 16, 2003.

Susan J. M. Cabler,

Deputy Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 03–1475 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 03–15–C–00–CHO To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Charlottesville-Albemarle Airport, Charlottesville, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to, impose and use the revenue from a PFC at Charlottesville-Albemarle Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before February 24, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 22016.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Bryan O. Elliott, Director of Aviation, of the Charlottesville-Albemarle Airport Authority at the following address: Charlottesville-Albemarle Airport Authority, 201 Bowen Loop, Charlottesville, Virginia 22901.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Charlottesville-Albemarle Airport Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Arthur Winder, Program Manager, Washington Airports District Office, 23723 Air Freight Land, Suite 210, Dulles, VA. 22016, (703) 661–1363. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Charlottesville-Albemarle Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On December 24, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by capital Region Airport Commission was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 29, 2003.

The following is a brief overview of the application.

Proposed charge effective date: February 1, 2005.

Proposed charge expiration date: August 1, 2006.

Level of the proposed PFC: $3.00.

Total estimated PFC Revenue:

Impose $850,000.

Use $850,000.

Brief description of proposed project(s): Terminal Building Modifications (Impose & Use). Upgrade multi-user Flight Information Display System (Impose & Use). Extend Runway 3 Safety Area, Phase IV (Impose & Use). PFC Project Administration Fees (Impose & Use).

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Air Taxi/Commercial Operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Airports Division, AEA–610, 1 Aviation Plaza, Jamaica, NY 11434–4809.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Charlottesville-Albemarle Airport.

Issued in Dulles, Va. 22016, January 14, 2003.

Arthur Winder,

Program Manager, Washington Airports District Office.

[FR Doc. 03–1474 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Mills County, IA; Cass County, NE

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for proposed roadway and bridge improvement project in Cass County, Nebraska, and Mills County, Iowa.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Kosola, Realty/Environmental Officer, FHWA, Federal Building, Room 220, 100 Centennial Mall North, Lincoln, NE 68508–3851, (402) 437–5765. Mr. Arthur Yonkey, Planning and Project Development Engineer, Nebraska Department of Roads. PO Box 94759, 1500 Highway 2, Lincoln, NE, 68509, (402) 479–4795. Mr. James Rost, Office of Location and Environment, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010, Telephone: (515) 239–1798.

SUPPLEMENTARY INFORMATION: The Transportation Appropriations Bill for fiscal year 2002 included funding for a study of a possible replacement bridge over the Missouri River on Highway U.S. 34 at Plattsmouth, Nebraska. The FHWA, in cooperation with the Nebraska Department of Roads (NDOR) and the Iowa Department of Transportation (Iowa DOT), will prepare an Environmental Impact Statement (EIS) for the Rehabilitation/Replacement and Roadway Study project for the U.S. 34 Plattsmouth Bridge.

The existing two-lane U.S. 34 toll bridge over the Missouri River at the east edge of Plattsmouth has been listed in the National Register of Historic Places. The existing bridge is a multi-span through-truss structure approximately 1,400 feet long with a 20-foot wide driving surface. This bridge is both functionally and structurally obsolete. The existing alignment of U.S. 34 is through the Central Business District of Plattsmouth. The roadway portion of the study will include a connection to Highway U.S. 75 at the west edge of Plattsmouth.

Alternatives under consideration include: (1) Taking no action; (2) rehabilitating/replacing the existing two-lane bridge; (3) constructing a new two-lane bridge on new location with a connection to the existing roadway system; and (4) constructing a new two-

lane bridge on new location with a new roadway system.

An agency scoping meeting and a public scoping/information meeting are planned. Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who are known to be interested in this proposed project. Public input will be sought throughout the project via a series of public meetings to be held in 2003 and 2004. A Draft EIS will be prepared and a public hearing will be held. Public notice will be given of the time and place of the public meetings and public hearing.

To ensure that the full range of issues related to this proposed action are 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 EIS should be directed to the Nebraska Department of Roads, Iowa DOT or FHWA at the address provided in the caption **FOR FURTHER INFORMATION CONTACT**.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program)

Dated: January 16, 2003.

Edward W. Kosola,

Realty/Environmental Officer, Nebraska Division, Federal Highway Administration, Lincoln, Nebraska.

[FR Doc. 03–1433 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Safety Advisory 2003–01.

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of Safety Advisory 2003–01.

SUMMARY: FRA is issuing Safety Advisory 2003–01 addressing the importance of the hazardous materials offeror's requirement to verify the compatibility of all packaging components, such as valves and gaskets, in the event a change is made to the chemical constituents of a hazardous material in a railroad tank car. This action is being taken to improve the safety and reliability of hazardous material shipments in transportation.

FOR FURTHER INFORMATION CONTACT: William S. Schoonover, Specialist, Hazardous Materials Division, Office of Safety Assurance and Compliance, Federal Railroad Administration, U.S. Department of Transportation, 1120 Vermont Avenue, NW., Washington, DC 20590–0001. Telephone: 202–493–6229, e-mail: *William.Schoonover@fra.dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

On February 18, 1999, railroad tank car number UTLX 643593, spotted on an unloading rack at the Essroc Cement Corporation's Logansport cement plant near Clymers, Indiana, sustained a sudden and catastrophic rupture that propelled the tank an estimated 750 feet over a multistory storage tank. The 20,000-gallon tank car initially contained about 161,700 pounds (14,185 gallons) of a toxic and flammable hazardous waste being used as fuel for the plant's kilns. Fortunately, there were no injuries or fatalities. However, total damages, including property damage and costs from lost production, were estimated at nearly $8.2 million. During the investigation of this incident, the safety relief device from this car and four other cars built to the same design were tested at a tank car repair facility to determine compliance with Federal regulations. Investigators determined that the gasket material in the safety relief devices exhibited varying degrees of brittleness, swelling, hardness, and cracking that contributed to the failure of the pressure relief devices to comply with Federal and industry requirements.

Incidents such as the one near Clymers, Indiana, result from noncompliance with the requirements in the Hazardous Materials Regulations (HMR). Specifically, these incidents derive from improper material selection and consideration of all components. The safety and reliability of hazardous materials shipments in transportation depend on a disciplined approach to material selection and maintenance.

FRA is issuing Safety Advisory 2003–01 to further discuss the requirements concerning gasket material selection in the event a change is made in the chemical constituents of the hazardous material shipped. This document provides general guidance only. Shippers should not rely on this document as a substitute for sound engineering, material selection, and maintenance management.

Tank car UTLX 643593, a DOT specification 111J100W1 tank car built in early 1993, was one of 52 tank cars designed for toluene diisocyanate (TDI) transportation. The certificate of construction for UTLX 643593, and the other cars listed on the built certificate, indicates that these cars were approved for carriage of ''Non-regulated commodities and commodities authorized in DOT Part 173 for which there are no other requirements and which are *compatible* with this design and class of car.'' [Emphasis Added] The service equipment from UTLX 643593 was on a 10-year maintenance and qualification cycle and was not due for requalification until 2003. The O-rings and gaskets for the pressure relief device were made of ethylene propylene rubber and Teflon®, respectively.

The hazardous material within the tank car, TDI waste matter, was loaded in October 1993 and stored until March 1998. It was transported to the Logansport facility for further storage until being moved for unloading in February 1999. On February 18, 1999, while spotted on an unloading rack, tank car UTLX 643593 sustained a sudden and catastrophic rupture that propelled the tank an estimated 750 feet over a multistory storage tank. Immediately after the incident, an investigation was conducted by the National Transportation Safety Board and FRA. Laboratory analysis obtained during the investigation revealed that two other constituents had been added to the material before shipping to the Logansport facility. A blending agent was added to the TDI to reduce its viscosity. The blending agents were HAN 906® (a mixture of flammable petroleum hydrocarbons such as naphthalene and trimethylbenzene) and monochlorobenzene (MCB). Both blending agents are classified as hazardous materials when shipped individually.

The transportation of the solvent blend wastes and TDI matter wastes in UTLX 643593 and the other tank cars approved for the transport of pure TDI constituted a change in the ''compatibility status'' of the tank and service equipment. This change in compatibility status, which resulted in deterioration of the components, was a key contributor to the pressure relief devices failure to meet Federal requirements (See 49 CFR 173.24(e)).

After the Clymers accident, FRA mandated, in a letter to the tank car owner, that the pressure relief devices from four of the 24 tank cars containing the TDI matter wastes in storage at the Logansport rail yard be pressure-tested in accordance with the HMRs before any of the tank cars could be transported for unloading. The tear down and inspection of the pressure relief devices from these five tank cars (the four cars that FRA required to be tested and UTLX 643593) demonstrated that the

devices were in a deteriorated condition. The ethylene propylene rubber ''O''-rings showed evidence of swelling, hardness, and brittleness, and the metallic components exhibited varying degrees of rust, scale, pitting, and grit. While the deteriorated ''O''-rings in the pressure relief devices did not cause the failure alone, the ''O''-rings clearly demonstrated improper material selection.

''A Chemical Resistance Guide to Elastomers'' provided to the investigators by the tank car manufacturer contained guidance about the resistance of available gasket, ''O''-ring, and sealing materials to degradation upon exposure to various chemicals. According to this guide, ethylene propylene rubber, the material that constituted the ''O''-rings in the pressure relief devices from the tank cars, offers good to excellent resistance to chemical attack from pure TDI at temperatures up to 70 °F and should not exhibit more than minor swelling, softening, or surface deterioration. The guide also recommends against using ethylene propylene rubber with either MCB or naphthalene, one of the primary components of the HAN 906® solvent. Investigators concluded that the swelling, hardness, and brittleness of the ethylene propylene rubber ''O''-rings in the pressure relief devices from the tank cars that were examined likely resulted from exposure to the MCB in the TDI matter waste.

The offeror of tank car UTLX 643593 apparently did not consider that the presence of MCB and HAN 906® solvent in the TDI waste mixtures might adversely affect the ''O''-rings in the pressure relief devices and other gaskets on the tank cars used to store and transport these wastes. Consequently, the offeror did not find that the presence of these chemicals changed the compatibility status from the transport of pure TDI. The investigation, however, showed that the presence of MCB and HAN 906® solvent in the TDI waste mixtures was sufficient to chemically attack the ''O''-rings in the pressure relief devices on tank cars carrying TDI waste mixtures. Therefore, the transportation of the solvent-blend wastes and TDI-matter wastes in the tank cars approved for the transport of pure TDI constituted a change in product compatibility.

Federal Requirements

The HMR, 49 CFR parts 171–180, set forth requirements for the safe transportation of hazardous materials in commerce by railcar, aircraft, vessel, and motor vehicle. In general, the HMR apply to each person who performs, or causes to be performed, functions related to the transportation of hazardous materials in commerce. The HMR prescribe requirements for classification, packaging, hazard communication, shipping papers, incident reporting, handling, loading, unloading, segregation, and movement of hazardous materials.

Material selection and use of an appropriate packaging for a hazardous material are essential to ensuring the safety and reliability of the shipment while in transportation. Only packagings compatible with the hazardous material may be used to ship hazardous materials in transportation. Persons must ensure that a packaging will retain its contents during temperature variances, changes in atmospheric pressure, vibration, or other conditions that may be encountered during normal conditions of transport. These requirements also apply to tank cars containing only a residue of a hazardous material.

The HMR place the responsibility for ensuring that a package is appropriate for transportation on the offeror (typically the shipper) of the material. The selection should be made with input from the tank car owner and the component/gasket manufacturer to ensure that the configuration is appropriate for the device and that other entities having similar responsibilities in relation to the tank car's maintenance are aware of the requirements and can modify inspection and maintenance cycles as necessary. In addition, the tank car manufacturer and tank car repair facilities each have a responsibility to ensure that the approved materials are used during the assembly of the tank car and for repairs or replacement. The HMR require the offeror to ensure that the components on the tank car are correct before offering the tank car for transportation.

Even when appropriate test intervals are established and followed, carriage of cargos that chemically attack gaskets and ''O''-rings in valves and fittings can undermine the integrity of the valves and fittings. The addition of a new chemical constituent to a commodity approved for transportation in a tank car changes the chemical composition of that commodity and results in the exposure of gaskets and seals on the tank car to a new mixture. The concentration of a newly added chemical constituent may be sufficiently diluted so as to present little or no risk of chemical attack to gaskets and seals, but the risk level can best be ascertained by tests or verification through technical literature that the new chemical constituent is compatible with the gaskets and seals on the tank car.

While no information or guidance regarding gasket and fitting compatibility in conjunction with changes in product service has yet been issued by FRA, the topic continues to be addressed through various programs. For example, on September 21, 1995, the Research and Special Programs Administration amended the performance standards for the gaskets used on tank cars. The regulations require that each tank car used in anhydrous ammonia, division 2.1 or division 2.3, service have gaskets designed according to temperature, application, media, pressure, and size, so that a positive seal is created and the safety and reliability of the shipment will be maintained.

Recommended Action

In recognition of the need to assure safety, FRA strongly urges all persons involved in the packaging and offering of hazardous materials to carefully examine all of their internal procedures and processes to ensure proper compliance. In addition, FRA reminds offerors of hazardous materials of their responsibility to verify the compatibility of all tank car components, such as valves and gaskets, to resist corrosion, permeability, premature aging, pitting, or embrittlement. In making these determinations, offerors should combine their knowledge of the materials to be shipped with component compatibility information available from the component and gasket manufacturers and communicate their requirements to the tank car owner. Technical organizations such as the National Association of Corrosion Engineers (*http://www.nace.org*), the American Society of Mechanical Engineers (*http://www.asme.org*), the American Chemistry Council (*http://americanchemistry.com*), the Fluid Sealing Association (*http://www.fluidsealing.com*), and the Gasket Fabricators Association (*http://gasketfab.org*) provide additional sources of information. Tank car owners are required to use the information received from offerors to develop appropriate maintenance and inspection cycles based on the information.

Additional Information

Interested parties can obtain additional information through several methods. You may request an informal written interpretation, a regulatory clarification, or a response to a question, or offer an opinion concerning hazardous materials transportation by sending a written submission to the

Office of Safety Assurance and Compliance (RRS–12), Federal Railroad Administration, U.S. Department of Transportation, 1120 Vermont Avenue, NW., Washington, DC 20590–0001 or to our e-Mail address at *hmassist@fra.dot.gov*. Additional information, including accident/incident information, guidance, and telephone contact numbers, is also available on our Web site at *http://www.fra.dot.gov*.

Issued in Washington, DC, on January 17, 2003.

George A. Gavalla,

Associate Administrator for Safety.

[FR Doc. 03–1468 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2002–13950

Applicant: Burlington Northern and Santa Fe Railway, Mr. William G. Peterson, Director Signal Engineering, 4515 Kansas Avenue, Kansas City, Kansas 66106.

The Burlington Northern and Santa Fe Railway (BNSF) seeks relief from the requirements of the Rules, Standard and Instructions, Title 49 CFR, part 236, Section 236.312, on the Crescent Bridge at Rock Island, Illinois, on the Illinois Division, Barstow Subdivision, LS 7, milepost 253.89 to the extent that BNSF is neither required to detect proper rail surface and alignment to within three-eighths (3/8) of an inch, nor be required to detect that the wedges are within one inch of being fully driven before a signal governing movements over the bridge can display an aspect to proceed.

Applicant's justification for relief: The expense associated with modifying this unique and antiquated bridge design to fully comply with these requirements, and FRA's indication that it would be receptive to a waiver request as conveyed in the denial decision of Docket FRA–2002–11370, which requested discontinuance and removal of the interlocking.

Any interested party desiring to protest the granting of an application shall set forth, specifically, the grounds upon which the protest is made and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on January 15, 2003.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–1473 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2002–13952

Applicant: Canadian National Railroad, Mr. John P. Rath, Manager of Signal Installations, 3000 Minnesota Avenue, Stevens Point, Wisconsin 54481.

The Canadian National Railroad seeks approval of the proposed discontinuance and removal of the interlocked signal system on the single main track, Fox River Swing Bridge, at milepost 2.4, on the Wisconsin Central Division, Luxemburg Subdivision near Green Bay, Wisconsin.

The reason given for the proposed changes is that the track now has minimal usage.

Any interested party desiring to protest the granting of an application shall set forth, specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC, on January 15, 2003.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–1469 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2002–13951

Applicant: Canadian National Railroad, Mr. John P. Rath, Manager of Signal Installations, 3000 Minnesota Avenue, Stevens Point, Wisconsin 54481.

The Canadian National Railroad seeks approval of the proposed discontinuance and removal of the interlocked signal system on the single main track, H–43–E Manitowoc River Drawbridge, at milepost 43.83, on the Wisconsin Central Division, Manitowoc Subdivision near Manitowoc, Wisconsin.

The reason given for the proposed changes is that the track now has minimal usage.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room P–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC, on January 15, 2003.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–1471 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2002–13953

Applicant: Canadian National Railroad, Mr. John P. Rath, Manager of Signal Installations, 3000 Minnesota Avenue, Stevens Point, Wisconsin 54481.

The Canadian National Railroad seeks approval of the proposed discontinuance and removal of the interlocked signal system on the single main track, H–43–D Manitowoc River Drawbridge, at milepost 43.61, on the Wisconsin Central Division, Manitowoc Subdivision near Manitowoc, Wisconsin.

The reason given for the proposed changes is that the track now has minimal usage.

Any interested party desiring to protest the granting of an application shall set forth, specifically, the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on January 14, 2003.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–1472 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2002–13881

Applicant: Safe Handling Rail, Incorporated, Mr. Jonathan F. Shute, General Manager, P.O. Box 1567, Auburn, Maine 04211–1567.

Safe Handling Rail, Incorporated seeks approval of the proposed temporary discontinuance and removal from service, the Carlton Drawbridge Interlocking, milepost 30.0 on the Rockland Branch near Bath, Maine for a period of approximately six months associated with on going construction and upgrades.

The reasons given for the proposed changes are due to the activities of an outside contractor, the delivery schedule of cable, and the necessity of

burying new signal and track circuit cables. Thus, it is not possible to perform the work safely and efficiently during winter conditions.

Any interested party desiring to protest the granting of an application shall set forth, specifically, the grounds upon which the protest is made and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC, on January 15, 2003.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–1470 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Customs Service

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of Customs duties. For the calendar quarter beginning January 1, 2003, the interest rates for overpayments will be 4 percent for corporations and 5 percent for non-corporations, and the interest rate for underpayments will be 5 percent. This notice is published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Ronald Wyman, Accounting Services Division, Accounts Receivable Group, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278, (317) 298–1200, extension 1349.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2002–70 (*see*, 2002–50 IRB 1, dated December 16, 2002), the IRS determined the rates of interest for the calendar quarter beginning January 1, 2003, and ending March 31, 2003. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (3%) plus two percentage points (2%) for a total of five percent (5%). For corporate overpayments, the rate is the Federal short-term rate (3%) plus one percentage point (1%) for a total of four percent (4%). For overpayments made by non-corporations, the rate is the Federal short-term rate (3%) plus two percentage points (2%) for a total of five percent (5%). These interest rates are subject to change for the calendar quarter beginning April 1, 2003, and ending June 30, 2003.

For the convenience of the importing public and Customs personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of Customs duties, is published in summary format.

Beginning date	Ending date	Underpayments (percent)	Overpayments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
Prior to				
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	

Beginning date	Ending date	Underpayments (percent)	Overpayments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	033103	5	5	4

Dated: January 17, 2003.

Robert C. Bonner,

Commissioner of Customs.

[FR Doc. 03–1445 Filed 1–22–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 97–15

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 97–15, section 103—Remedial Payment Closing Agreement Program.

DATES: Written comments should be received on or before March 24, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of revenue procedure should be directed to Carol Savage, (202) 622–3945, or through the internet *(CAROL.A.SAVAGE@irs.gov.),* Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Section 103—Remedial Payment Closing Agreement Program.

OMB Number: 1545–1528.

Revenue Procedure Number: Revenue Procedure 97–15.

Abstract: This information is required by the Internal Revenue Service to verify compliance with sections 57, 103, 141, 142, 144, 145, and 147 of the Internal Revenue Code of 1986, as applicable (including any corresponding provision, if any, of the Internal Revenue Code of 1954). This information will be used by the Service to enter into a closing agreement with the issuer of certain state or local bonds to establish the closing agreement amount.

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: State, local or tribal government, and not-for-profit institutions.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 1 hour, 30 minutes.

Estimated Total Annual Burden Hours: 75.

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 15, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–1382 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209709–94]

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–209709–94 (TD 8865), Amortization of Intangible Property (§ 1.197–2).

DATES: Written comments should be received on or before March 24, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Amortization of Intangible Property.

OMB Number: 1545–1671.

Regulation Project Number: REG–209709–94.

Abstract: Section 1.197–2(h)(9) requires the party making the election statement to timely filed Federal income tax return for the taxable year that the election under section 197(f)(9)(B) is effective, and to provide written notification of the election to the party acquiring the section 197 intangible.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 1,500.

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 13, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–1383 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8508

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 8508, Request for Waiver From Filing Information Returns Magnetically (Forms W–2, W–2G, 1042–S, 1098, 1099 Series, 5498–MSA, and 8027.

DATES: Written comments should be received on or before March 24, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Request for Waiver From Filing Information Returns Magnetically (Forms W–2, W–2G, 1042–S, 1098, 1099 Series, 5498–MSA, and 8027.

OMB Number: 1545–0957.

Form Number: 8508.

Abstract: Certain filers of information returns are required by law to be filed magnetically. In some instances, waivers from this requirement are necessary and justified. Form 8508 is submitted by the filer and provides information on which the Internal Revenue Service will base its waiver determination.

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, non-profit institutions, farms, the Federal government, and state, local or tribal governments.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 750.

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 13, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–1384 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 96–60

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 96–60, Procedure for filing Forms W–2 in certain acquisitions.

DATES: Written comments should be received on or before March 24, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Procedure for filing Forms W–2 in certain acquistions.

OMB Number: 1545–1510.

Revenue Procedure Number: Revenue Procedure 96–60.

Abstract: The information is required by the Internal Revenue Service to assist predecessor and successor employers in complying with the reporting requirements under Internal Revenue Code sections 6051 and 6011 for forms W–2 and 941.

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: Business or other for-profit organizations.

Estimated Number of Respondents: 553,500.

Estimated Time Per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 110,700.

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 13, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–1385 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4419

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 4419, Application for Filing Information Returns Magnetically/ Electronically.

DATES: Written comments should be received on or before March 24, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.),* Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Filing Information Returns Magnetically/ Electronically.

OMB Number: 1545–0387.

Form Number: 4419.

Abstract: Under section 6011(e)(2)(a) of the Internal Revenue Code, any person, including corporations,

partnerships, individuals, estates and trusts, who is required to file 250 or more information returns must file such returns magnetically or electronically. Payers required to file on magnetic media or electronically must complete form 4419 to receive authorization to file.

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, non-profit institutions, and Federal, State, local or tribal governments.

Estimated Number of Respondents: 15,000.

Estimated Time Per Respondent: 26 minutes.

Estimated Total Annual Burden Hours: 6,500.

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 13, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–1388 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[FI–7–94; FI–36–92]

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 existing final regulations, FI–7–94 (TD 8718; TD 8538) and FI–36–92 (TD 8476), Arbitrage Restrictions on Tax-Exempt Bonds (§§ 1.148–2, 1.148–3, 1.148–4, 1.148–7, and 1.148–11).

DATES: Written comments should be received on or before March 24, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P, Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulations should be directed to Carol Savage, (202) 622–3945, or through the Internet (*CAROL.A.SAVAGE@irs.gov.),* Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Arbitrage Restrictions on Tax-Exempt Bonds.

OMB Number: 1545–1347.

Regulation Project Numbers: FI–36–92; FI–7–94.

Abstract: Section 148 of the Internal Revenue Code requires issuers of tax-exempt bonds to rebate certain arbitrage profits earned on nonpurpose investments acquired with the bond proceeds. Under FI–36–92, issuers are required to file a Form 8038-T and remit the rebate. Issuers are also required to keep records of certain interest rate hedges so that the hedges are taken into account in determining arbitrage profits. Under FI–7–94, the scope of interest rate hedging transactions covered by the arbitrage regulations was broadened by requiring that hedges entered into prior to the sale date of the bonds are covered as well.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local or tribal governments.

Estimated Number of Respondents: 3,100.

Estimated Time Per Respondent: 14 hr., 34 min.

Estimated Total Annual Burden Hours: 42,050.

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 13, 2003.

Glenn P, Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–1389 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 99–50

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 99–50, Combined Information Reporting.

DATES: Written comments should be received on or before March 24, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of revenue procedure should be directed to Carol Savage, (202) 622–3945, or through the Internet *(CAROL.A.SAVAGE@irs.gov.),* Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Combined Information Reporting.

OMB Number: 1545–1667.

Revenue Procedure Number: Revenue Procedure 99–50.

Abstract: Revenue Procedure 99–50 permits combined information reporting by a successor business entity (*i.e.*, a corporation, partnership, or sole proprietorship) in certain situations following a merger or an acquisition. Combined information reporting may be elected by a successor with respect to certain Forms 1042–S, all forms in the series 1098, 1099, and 5498, and Forms W–2G. The successor must file a statement with the IRS indicating what forms are being filed on a combined basis.

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: Business or other for-profit organizations, not-for-profit institutions, and farms.

Estimated Number of Respondents: 6,000.

Estimated Average Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 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 13, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–1390 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 5310 and 6088

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 5310, Application for Determination for Terminating Plan, and Form 6088, Distributable Benefits from Employee Pension Benefit Plans.

DATES: Written comments should be received on or before March 24, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622–3945, or through the Internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 5310, Application for Determination for Terminating Plan, and Form 6088, Distributable Benefits from Employee Pension Benefit Plans.

OMB Number: 1545–0202.

Form Number: Forms 5310 and 6088.

Abstract: Employers who have qualified deferred compensation plans can take an income tax deduction for contributions to their plans. Form 5310 is used to request an IRS determination letter about the plan's qualification status (qualified or non-qualified) under Internal Revenue Code section 401(a). Form 6088 is used to show the amounts of distributable benefits to participants in the plan.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 30,000.

Estimated Time Per Response: 60 hours, 20 minutes.

Estimated Total Annual Burden Hours: 1,810,050.

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 14, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–1391 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5310–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5310-A, Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business.

DATES: Written comments should be received on or before March 24, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the Internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business.

OMB Number: 1545–1225.

Form Number: 5310–A.

Abstract: Internal Revenue Code section 6058(b) requires plan administrators to notify IRS of any plan mergers, consolidations, spinoffs, or transfers of plan assets or liabilities to another plan. Code section 414(r) requires employers to notify IRS of separate lines of business for their deferred compensation plans. Form 5310–A is used to make these notifications.

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.

Estimated Number of Respondents: 15,000.

Estimated Time Per Respondent: 9hr., 31 min.

Estimated Total Annual Burden Hours: 142,750.

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 14, 2003.

Glenn P, Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–1392 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2000–3

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 Notice 2000–3, Guidance on Cash or Deferred Arrangements.

DATES: Written comments should be received on or before March 24, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of noticeshould be directed to Carol Savage, (202) 622–3945, or through the Internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Guidance on Cash or Deferred Arrangements.

OMB Number: 1545–1669.

Notice Number: Notice 2000–3.

Abstract: Notice 2000–3 provides guidance to employers maintaining, or who are contemplating establishing, cash or deferred arrangements (CODAs) for their employees. It permits some degree of flexibility in using the safe harbor methods, described in sections 401(k)(12) and 401(m)(11) of the Internal Revenue Code, to satisfy the nondiscrimination tests normally applicable to CODAs. To take advantage of this flexibility, employers must amend their CODAs accordingly and provide employees written notices of

the benefits available to them under the CODA.

Current Actions: There are no changes being made to the notice at this time.

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: 6,000.

Estimated Time Per Respondent: 1 hour, 20 minutes.

Estimated Total Annual Burden Hours: 8,000.

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 14, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–1393 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–CE

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 706–CE, Certificate of Payment of Foreign Death Tax.

DATES: Written comments should be received on or before March 24, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn 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 Allan Hopkins, at (202) 622–6665, or through the Internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Certificate of Payment of Foreign Death Tax.

OMB Number: 1545–0260.

Form Number: 706–CE.

Abstract: Form 706–CE is used by the executors of estates to certify that foreign death taxes have been paid so that the estate may claim the foreign death tax credit allowed by Internal Revenue Code section 2014. The information is used by IRS to verify that the proper credit has been claimed.

Current Actions: There are no changes being made to Form 706–CE at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individual or households.

Estimated Number of Responses: 2,250.

Estimated Time Per Response: 1 hr., 44 min.

Estimated Total Annual Burden Hours: 3,893.

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: Januray 15, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–1394 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8832

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 8832, Entity Classification Election.

DATES: Written comments should be received on or before March 24 ,2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn 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 Allan Hopkins, (202) 622–6665, or through the Internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Entity Classification Election.

OMB Number: 1545–1516.

Form Number: 8832.

Abstract: An eligible entity that chooses not to be classified under the default rules of Treas. Reg. 301.7701 or that wishes to change its current classification must file Form 8832 to elect a classification. The IRS will use the information entered on this form to establish the entity's filing and reporting requirements for Federal tax purposes.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 5,0000.

Estimated Time Per Respondent: 4 hrs., 20 min.

Estimated Total Annual Burden Hours: 21,650.

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 15, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–1395 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4029

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 4029, Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits.

DATES: Written comments should be received on or before March 24, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn 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 Larnice Mack, at (202) 622–3179, or *Larnice.Mack@irs.gov,* or Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits.

OMB Number: 1545–0064.

Form Number: 4029.

Abstract: Form 4029 is used by members of recognized religious groups to apply for exemption from social security and Medicare taxes under Internal Revenue Code sections 1402(g) and 3127. The information is used to approve or deny exemption from social security and Medicare taxes.

Current Actions: There are no changes being made to the Form 4029 at this time.

Type of Review: Extension of a current OMB approval. Affected Public: Individuals or households.

Estimated Number of Respondents: 3,754.

Estimated Time Per Respondent: 1 hr. 4 min.

Estimated Total Annual Burden Hours: 4,017.

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 15,2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–1396 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120X

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 1120X, Amended U.S. Corporation Income Tax Return.

DATES: Written comments should be received on or before March 24, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn 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 Larnice Mack at (202) 622–3179, or *Larnice.Mack@irs.gov,* or Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Amended U.S. Corporation Income Tax Return.

OMB Number: 1545–0132.

Form Number: 1120X.

Abstract: Domestic corporations use form 1120X to correct a previously filed form 1120 or form 1120–A. The data is used to determine if the correct tax liability has been reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 16,699.

Estimated Time Per Respondent: 18 hr., 17 min.

Estimated Total Annual Burden Hours: 305,425.

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 15, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–1397 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Ad Hoc Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Ad Hoc Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference).

DATES: The meeting will be held Monday, February 3, 2003.

FOR FURTHER INFORMATION CONTACT: Anne Gruber at 1–888–912–1227, or 206–220–6095.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Ad Hoc Issue Committee of the Taxpayer Advocacy Panel will be held Monday, February 3, 2003, from 1 p.m. p.s.t. to 3 p.m. p.s.t. via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6095, or write Anne Gruber, TAP Office, 915 2nd Ave, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made in advance with Anne Gruber. Ms. Gruber can be reached at 1–888–912–1227 or 206–220–6095.

The agenda will include the following: various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: January 14, 2003.

Deryle J. Temple,

Director, Taxpayer Advocacy Panel.

[FR Doc. 03–1524 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 3 Taxpayer Advocacy Panel (Including the States of Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas and Tennessee)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 3 Taxpayer Advocacy Panel will be conducted.

DATES: The meeting will be held Friday, February 7, 2003.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 3 Taxpayer Advocacy Panel will be held Friday, February 7, 2003, from 3 p.m. e.s.t. to 7 p.m. e.s.t. at the Omni Jacksonville Hotel, 245 Water St., Jacksonville, Florida. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or

write Sallie Chavez, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited space, notification of intent to participate in the meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979.

The agenda will include the following: various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: January 7, 2003.

Maryclare Whitehead,

Executive Assistant to the National Taxpayer Advocate.

[FR Doc. 03–1525 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel (TAP) Multilingual Initiative Issue (MLI) Committee Will Be Conducted (Via Teleconference)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel (TAP) Multilingual Initiative Issue (MLI) Committee will be conducted (via teleconference).

DATES: The meeting will be held Friday, February 14, 2003.

FOR FURTHER INFORMATION CONTACT: Inez E. De Jesus at 1–888–912–1227, or 954–423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Multilingual Initiative Issue Committee will be held Friday, February 14, 2003, from 1 p.m. e.s.t. to 2 p.m. e.s.t. via a telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7977, or write Inez E. De Jesus, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Inez E. De Jesus. Ms. De Jesus can be reached at 1–888–912–1227 or 954–423–7977.

The agenda will include the following: various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: January 13, 2003.

Deryle J. Temple,

Director, Taxpayer Advocacy Panel.

[FR Doc. 03–1526 Filed 1–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request—Thrift Financial Report

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. Today, the Office of Thrift Supervision (OTS) within the Department of the Treasury solicits comments on proposed changes to the Thrift Financial Report (TFR), effective with the March 31, 2004 report. A proposal to amend Schedule CMR, Consolidated Maturity and Rate, a schedule that addresses interest rate risk, will be published separately at a later date.

The following subjects are discussed in more detail below:

(1) Definition of Mortgage Loans;
(2) Mortgage Backed Securities;
(3) Asset-backed Securities;
(4) Junior liens;
(5) Multifamily mortgages;
(6) General Valuation Allowances;
(7) Credit Cards;
(8) Servicing Assets in Schedule SC;
(9) Bank-Owned Life Insurance;
(10) Minority Interest on the Balance Sheet;
(11) Accumulated Other Comprehensive Income;
(12) Optional Narrative Statement;
(13) FHLB Dividend Income;
(14) Goodwill Expense;
(15) Schedule VA, Valuation Allowance Reconciliation;
(16) Troubled Debt Restructured;
(17) Guaranteed Loans Past Due;
(18) Unused Balances of Credit Cards and Home Equity Lines of Credit;
(19) Deletion of Lines in Schedule CF (Cash Flow);
(20) Refinancing Loans
(21) Nonmortgage Loan Activity;
(22) Mortgage Derivative Securities Activity Detail;
(23) Deposit Information and Deposit Insurance Premium Assessment Information;
(24) Summary of Changes in Equity Capital;
(25) Thrift Investment in Service Corporations;
(26) Savings Association and Subsidiary Web Site Addresses;
(27) IRS Domestic Building and Loan Association (DBLA) Test;
(28) Mutual Fund and Annuity Sales;
(29) Transactions with affiliates;
(30) Average Balance Sheet Data;
(31) Schedule SB, Small Business Loans;
(32) Holding Company Information;
(33) Reporting Frequency of Schedule CSS (Subordinate Organization Schedule);
(34) Consolidation of Subordinate Organizations;
(35) Schedule CCR (Capital Requirement);
(36) Shorter Deadlines for TFR, Including Schedules HC and CMR.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which OTS should modify the proposed revisions prior to giving its final approval. OTS will then submit the revisions to the Office of Management and Budget (OMB) for review and approval.

DATES: Submit written comments on or before March 24, 2003.

ADDRESSES: Send comments to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0023. Hand deliver comments to the Guard's Desk, east lobby entrance, 1700 G Street, NW., between 9 A.M. and 4 P.M. on business days. Send facsimile transmissions to FAX Number (202) 906–6518. Send e-mails to *infocollection.comments@ots.treas.gov.* All comments should refer to ''TFR Revisions, OMB No. 1550–0023,'' and include your name, company, and telephone number. OTS will post comments and the related index on the OTS Internet site at: *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., Washington, DC 20552 by appointment. To make an appointment, call (202)906–5922, send an e-mail to *public.info@ots.treas.gov,* or

send a facsimile transmission to (202)906–7755. Appointments will be scheduled on business days between 10 AM and 4 PM.

FOR FURTHER INFORMATION: You can access sample copies of the proposed March 2004 TFR form on OTS's web site, *www.ots.treas.gov*, or you may request them by electronic mail from *tfr.instructions@ots.treas.gov;* from Trudy Reeves, Senior Financial Reporting Analyst, National Systems, (202) 906–7317, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; or from Marilyn K. Burton, OTS Paperwork Clearance Officer, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by electronic mail at *marilyn.burton@ots.treas.gov.*

SUPPLEMENTARY INFORMATION:

Title: Thrift Financial Report.

OMB Number: 1550–0023.

Form Number: OTS 1313.

Abstract: All OTS-regulated savings associations must comply with the information collections described in this notice. OTS collects this information each calendar quarter, or less frequently if so stated. OTS needs this information to monitor the condition, performance, and risk profile of the savings association industry.

Current Actions: After reviewing its current supervisory and examination needs, OTS proposes a number of revisions to the Thrift Financial Report (TFR), effective with the March 31, 2004 report. The proposed revisions will enhance the usefulness of the TFR from a supervisory prospective and will complement the federal banking agencies' emphasis on risk-focused supervision.

OTS had proposed in August 2000 to collect most of the data being proposed today beginning with the first quarter of 2001. However, OTS decided to postpone certain changes to the TFR until March 2004. The original proposal can be accessed on the OTS web site at *http://www.ots.treas.gov/docs/86233.pdf.*

This proposal also addresses certain aspects of sections 307(b) and (c) of the Riegle Community Development and Regulatory Improvement Act of 1994 (the Riegle Act). These sections direct the federal banking agencies to work jointly toward more uniform reporting, review the information that institutions currently report, and eliminate existing reporting requirements that are not warranted for safety and soundness or other public policy purposes.

Several reporting changes being proposed would introduce more uniformity for savings associations, banks, and bank holding companies to certain aspects of regulatory reporting. In this regard, over the past several years, the federal banking regulators have sought greater consistency among the reporting requirements imposed on savings associations, banks, and bank holding companies.

Increasing the uniformity of reporting requirements, among the different types of institutions supervised by the federal financial institution regulators, is a necessary step toward achieving the goal of a single set of reporting requirements for the filing of core information that is set forth in section 307(b) of the Riegle Act.

1. Definition of Mortgage Loans

We propose redefining mortgages for TFR reporting to encompass all real estate loans subject to 12 CFR 560.100–101 (real estate lending standards) and OTS Thrift Bulletin 72a. This revised definition would include all loans predicated upon a security interest in real property. All revolving home equity loans and second mortgages would be reported as mortgages, not as consumer loans. The only loans that would be reported as nonmortgage loans are unsecured loans and those that are otherwise substantially secured by collateral other than real estate, where a mortgage was taken as an abundance of caution (for example, an auto loan with an incidental lien on a residence), and where the terms as a consequence have not been made more favorable than they would have been in the absence of the lien. If a loan can be placed under more than one classification (for example, when a loan to finance a small business is primarily secured by a single-family residence), the institution may classify the loan as either single-family or commercial for purposes of HOLA percent-of-assets limitations and for purposes of the TFR. However, even if the institution places such a loan in a non-real-estate category, it is subject to § 560.100–101.

The current criteria for classification as a mortgage—that a loan is fully secured by the property and that an appraisal or other evaluation has been performed—would no longer apply. If this change in mortgage loan definition is adopted, mortgage loan classification in the TFR would be more consistent with the mortgage loan classification by commercial banks on the Call Report. Increasing uniformity between the TFR and the Call Report is a step toward achieving the goal of a single set of reporting requirements for the filing of core information that is set forth in section 307(b) of the Riegle Act.

2. Mortgage Backed Securities

We propose combining mortgage-backed pass-through securities and mortgage derivatives into one section in the balance sheet (Schedule SC); breaking out insured or guaranteed pass-through securities into two lines:

(1) Guaranteed by GNMA; and

(2) Issued by FNMA and FHLMC.

We propose breaking out mortgage derivative securities into three lines:

(1) Those issued or guaranteed by FNMA, FHLMC, or GNMA;

(2) Those collateralized by securities issued or guaranteed by FNMA, FHLMC, or GNMA; and

(3) All others.

This would provide consistent information with the commercial bank Call Report, would be more consistent with the presentation of mortgage-backed securities in financial statements included with filings under the Securities and Exchange Act of 1934, and would provide information on the degree of risk of the derivative investment. Consistent with the commercial bank Call Report, mortgage-backed bonds would be reported with other investment securities on SC185.

3. Asset-backed Securities

OTS proposes to add a line under ''Investment Securities'' on the balance sheet (Schedule SC) to collect securities collateralized by nonmortgage loans (asset-backed securities), including securities backed by credit cards, other consumer loans, and commercial loans. Asset-backed securities are currently reported with other types of investment securities on SC185. The addition of this line item would provide important information concerning the holdings of these securities.

4. Junior Liens

OTS proposes to separately collect first liens and junior liens under ''Permanent Mortgages'' on 1–4 dwelling units in the balance sheet (Schedule SC) to better monitor the riskier junior lien market. Currently, the TFR does not collect data on single-family residential junior liens. This change would make the TFR mortgage loan breakdown consistent with the commercial bank Call Report. This change would also be made to the breakdown of residential mortgages in the charge-off and recovery data on Schedule VA and past-due data in Schedule PD.

5. Multifamily Mortgages

OTS proposes to rename ''5 or More Dwelling Units'' to ''Multifamily (5 or more) Residential Properties'' throughout the TFR. The use of

''multifamily residential properties'' conforms to the wording in the OTS capital regulations, other OTS regulations, and in the commercial bank Call Report, clarifying that these are the same type of loans. Schedules CCR and CMR currently use the term ''multifamily residential mortgages.''

6. General Valuation Allowances

OTS proposes removing from Schedule SC general valuation allowances on investment securities (SC199), real estate held for investment (SC481), and equity investments (SC529). This would require savings associations to report these items net of general valuation allowances, if there are any. It is OTS's opinion that a general valuation allowance on these items should be rare.

7. Credit Cards

OTS proposes to collect credit cards separately under the heading ''Consumer Loans.'' Currently, credit cards are combined with other similar plans such as overdraft lines on checking accounts. These other similar plans would be reported with ''Other Consumer Loans.'' Because the change in the definition of mortgage loans mentioned above results in restructuring the consumer loan categories in Schedule SC, we would eliminate the distinction between closed-end and open-end consumer loans. Consequently, the line for ''Other, Including Leases'' would contain both closed-end loans and open-end loans such as those currently reported with credit cards. Credit cards would be broken out separately on the balance sheet (Schedule SC), in charge-offs and recoveries (Schedule VA), and in past due and nonaccrual (Schedule PD). This presentation would be consistent with the Call Report.

8. Servicing Assets in Schedule SC

OTS proposes adding a section in Schedule SC to characterize servicing assets as intangibles, as required by Financial Accounting Standards Board (FASB) Statement No. 142. No new lines would be added; this change would simply regroup intangible assets. Under this proposal a new subheading ''Intangible Assets'' would be added. Grouped under this heading would be Servicing Assets on Mortgage Loans (line SC642), Servicing Assets on Nonmortgage Loans (line SC644), and Goodwill and Other Intangibles (line SC660).

9. Bank-Owned Life Insurance

OTS proposes adding two lines in Schedule SC (Statement of Condition) to collect balances of key person life insurance and other bank-owned life insurance. These lines would facilitate monitoring of the level of bank-owned life insurance held by thrifts, an amount that has risen considerably over the past several years. Key person life insurance is defined as: life insurance where the intended purpose is to provide the institution protection against the potential for losses arising from the untimely death of a key employee or borrower. These policies are generally surrendered when the key employee leaves the institution or when the borrower pays off his loan. OTS currently collects this information in Other Assets (SC690).

10. Minority Interest on the Balance Sheet

OTS proposes changing the caption of SC799 from ''Redeemable Preferred Stock and Minority Interest'' to ''Minority Interest.'' The FASB has on their agenda consideration of a change in the financial reporting of redeemable preferred stock. It is anticipated that a statement will be released in 2003, to be effective in 2004. This change likely will clarify that redeemable preferred stock and similar instruments should be reported as borrowings and will no longer be reported in the balance sheet mezzanine area. We may be required to make additional changes to the TFR based on FASB's final pronouncement at a later date.

11. Accumulated Other Comprehensive Income

OTS proposes to add a subsection in the equity section of the balance sheet (Schedule SC) for accumulated other comprehensive income to conform to generally accepted accounting principles (GAAP). This section would include the existing line for unrealized gains (losses) on available-for-sale securities and two additional lines for:

(1) Gains (losses) on cash flow hedges; and

(2) Other, including foreign currency translation adjustments and minimum pension liability adjustments.

This change would put Schedule SC in conformity with GAAP, as described in FASB Statement No. 130.

12. Optional Narrative Statement

OTS proposes adding a space for thrift management to submit a brief narrative statement concerning data reported in their TFR. This would permit institutions to provide narrative information on significant transactions, mergers, organizational adjustments, reclassifications, prior period adjustments, etc., of which they want OTS and the public to be aware. The narrative statement is optional and, therefore, poses no additional burden. The contents of the narrative would be the responsibility of management, would not be edited or screened by OTS, and would be released to the public.

13. Federal Home Loan Bank (FHLB) Dividend Income

OTS proposes adding a separate line in Schedule SO (Statement of Operations) for FHLB dividend income. FHLB dividends comprise a relatively large portion of net income for many institutions. Because of the magnitude of FHLB dividend income, we currently require the reporting of FHLB dividends in the detail of other noninterest income, leaving only two detail lines for other noninterest income. Creating a separate line for FHLB dividends would provide us with three detail lines describing other noninterest income as originally intended.

14. Goodwill Expense

OTS proposes revising the title of SO560 from ''Amortization of Goodwill'' to ''Goodwill and Other Intangibles Expense'' to provide for periodic write-down of goodwill along with amortization of other intangibles, pursuant to FASB Statement No. 142.

15. Schedule VA, Valuation Allowance Reconciliation

OTS proposes to change the caption in the last column of the charge-off and recovery schedule from ''Total'' to ''Adjusted Net Charge-offs'' to better reflect its purpose.

16. Troubled Debt Restructured

OTS proposes to break out Troubled Debt Restructured (TDR) reported on VA941 into TDR in compliance with modified terms and past-due TDR. We would delete VA941 (TDR) and replace it with a line for TDR in compliance. We would add new lines in Schedule PD for each of the past due categories (30–89 days, 90 days or more, and nonaccrual) for past-due TDR included in Schedule PD. This would give OTS important monitoring information concerning the relative risk of the TDR on the books of an institution. It would also permit industry analysts to better identify assets with possible problems, since TDR in compliance may not present as much of a risk. This corresponds to the Call Report break out of TDR—troubled debt restructured and in compliance with modified terms, RC–C, Part I, Memoranda item 1 and troubled debt restructured past due, which is reported on RC–N, Memoranda item 1.

17. Guaranteed Loans Past Due

OTS proposes adding a line in each of the past due categories (30–89 Days, 90 Days or More, and Nonaccrual) in Schedule PD for the guaranteed portion of loans and leases that are wholly or partially guaranteed by the U.S. Government or Agency thereof. All loans, regardless of any guarantee, are included in Schedule PD, and all of Schedule PD is released to the public. The addition of this data would benefit institutions. Because investment and loan ratings are based on amounts reported in Schedule PD, without this new line, delinquent guaranteed loans could bring a rating down when in fact these loans may present no credit risk to the institution if they are properly underwritten and administered. This line is included in the Call Report on RC–N item 10.a.

18. Unused Balances of Credit Cards and Home Equity Lines of Credit

OTS proposes to add two lines in Schedule CC (Commitment and Contingencies) to collect data on the unused balance of credit cards, and outstanding home equity lines of credit that have not yet been drawn down; currently these amounts are included with Open-end Consumer Lines on CC410.

19. Deletion of Lines in Schedule CF (Cash Flow)

OTS proposes to delete the following lines that are no longer used:

- *Mortgage Pool Securities Activity*—OTS proposes combining the activity of mortgage pool securities secured by fixed-rate mortgages and those secured by variable-rate mortgages in Schedule CF (Cash Flow) (lines CF140 through CF170) into one line for purchases and one line for sales. We feel the breakdown of activity between fixed and variable rate is no longer necessary.
- *Mortgage Loan Activity*—OTS proposes combining the activity of newly built and previously occupied permanent mortgages on residential property in Schedule CF into one line collecting these data. The breakdown between newly built and previously occupied is no longer considered necessary for supervisory purposes.

20. Refinancing Loans

In order to track total refinancing loans, OTS proposes to change the definition of CF360, Refinancing Loans, to include not only refinanced loans where the reporting institution held the original mortgage, but also refinanced loans where another institution held the original mortgage. Line CF360 would be deleted and replaced with a new line using the revised definition. This would provide OTS with more complete information when assessing the amount of refinancing activity in an institution or in a geographical area.

21. Nonmortgage Loan Activity

Because nonmortgage loans have become a larger, and, in most cases, riskier part of the thrift industry's loan portfolio, OTS proposes adding two lines capturing sales of commercial and consumer nonmortgage loans. Schedule CF currently reconciles the activity in mortgage loans, deposits, and mortgage pool securities; however, nonmortgage commercial and consumer loans have only one line each for originations and purchases. These lines along with the proposed lines would improve reconciliation of nonmortgage loans and would indicate the volume of nonmortgage loans that are acquired and sold within the same quarter.

22. Mortgage Derivative Securities Activity Detail

OTS proposes adding activity detail on mortgage derivative securities, i.e., purchases, sales, and other balance changes. For some institutions, period-to-period swings in these assets can be more significant than in their loan portfolio balances. This section would be placed in Schedule CF immediately following purchases and sales of mortgage pool securities.

23. Deposit Information and Deposit Insurance Premium Assessment Information

OTS proposes to move the deposit data and deposit insurance premium assessment information from Schedule SI (Supplemental Information) to a new schedule, Schedule DI (Deposit Information). Schedule SI was designed to contain supplementary data not collected elsewhere in the TFR. Because the number of items collected for deposit insurance premium assessment purposes has increased substantially over the past ten years, we believe it is preferable to move these data items to a separate schedule. This schedule would correspond to Call Report Schedules RC–E and RC–O.

The Federal Deposit Insurance Corporation (FDIC) Assessments Branch has requested that we re-establish a line that was deleted in 1996 that collected reciprocal balance accounts deducted from insured deposits in calculating the deposit insurance premium. We propose adding this line, which would be collected in the new Schedule DI and would be captioned: ''Adjustments to Demand Deposits for Reciprocal Demand Balances with Commercial Banks and Other Savings Associations.'' These reciprocal demand balances are currently collected along with other items in SI247. This line corresponds to Call Report RC–O Line 11.a.

OTS also proposes adding balance information on:

- Transaction accounts,
- Money market deposit accounts,
- Passbook accounts, and
- Time deposits.

Similar data are currently collected for those institutions that file Schedule CMR, but is not publicly released. Placing these balances on the new Schedule DI would provide publicly available data for all institutions, consistent with the breakdown of deposits in the Call Report, RC–E.

24. Summary of Changes in Equity Capital

Currently SI670, Other Adjustments to Equity Capital, is made up of various items and, for most savings associations, this miscellaneous data item is the largest reconciling amount to capital. To provide a better understanding of this adjustment, OTS proposes adding the following three lines in the reconciliation of equity capital in Schedule SI:

- Other Comprehensive Income (an amount that can be generated in the electronic filing software and would require no input by the reporting savings association);
- Other Capital Contributions (where no stock is issued); and
- Prior Period Adjustments (for periods that can no longer be amended).

We would change the title of this section to ''Summary of Changes in Equity Capital.'' The inclusion of current comprehensive income in the summary of changes in equity capital would put this reconciliation in conformity with GAAP, as described in FASB Statement No. 130.

25. Thrift Investment in Service Corporations

OTS proposes adding a line in Schedule SI to collect the thrift's aggregate investment in service corporations. The definition of service corporation investment would include the thrift's total exposure, that is, all equity investments, unsecured loans, and third party guarantees. Under OTS rules, a thrift can make investments in service corporations and lower-tier entities. For determining compliance with lending and investment limits, a federal thrift has the flexibility to place loans to service corporations or lower-tier entities in either the service corporation investment category or another applicable investment category

(such as its commercial lending authority), consistent with the lending and investment powers set forth in § 560.30 (Lending and Investment Powers of Federal Savings Associations). Collecting this data will enable OTS to monitor a thrift's total investment in service corporations and lower-tier entities.

26. Savings Association and Subsidiary Web Site Addresses

OTS proposes the addition of an Internet home page address and transactional web site addresses as defined in § 555.300(b) to assist in monitoring the activities of savings associations on their web sites. These data items would be collected in Schedule SQ (Supplementary Questions). OTS also proposes adding a similar data item to collect transactional web site addresses of subsidiaries in Schedule CSS (Subordinate Organization Schedule).

27. IRS Domestic Building and Loan Association (DBLA) Test

OTS proposes to add a line for those savings associations that do not use the Home Owners' Loan Act (HOLA) Qualified Thrift Lender (QTL) test, but instead use the IRS Domestic Building and Loan Association (DBLA) test. The addition of this line would more exactly identify savings associations that are using the IRS DBLA test and would enable the regions to better monitor the QTL status of those associations. This line would be added in Schedule SI following the lines for QTL. It would be required only of those associations using the DBLA test, who are currently required to calculate their DBLA test monthly. Thus, the addition of this line would pose no additional burden.

28. Mutual Fund and Annuity Sales

OTS proposes eliminating the collection of data on quarterly sales of annuities, mutual funds, and proprietary products, SI800 through SI850. In place of these items, each savings association would respond to a ''yes'' or ''no'' question asking whether it sells private label or third party mutual funds and annuities. In addition, savings associations would report the total assets under their management in proprietary mutual funds and annuities. The data item collecting fee income from the sale and servicing of mutual funds and annuities would be retained. For savings associations with proprietary mutual funds and annuities, reporting the amount of assets under management should be significantly less burdensome than reporting the quarterly sales volume for these proprietary products. These changes were made to the Call Report in March 2001.

29. Transactions with Affiliates

OTS proposes adding memoranda information in Schedule SI on certain transactions the savings association has with its affiliates. The term ''affiliate'' is defined in 12 CFR 563.41(b)(1). For purposes of the collection of this information, ''affiliate'' is defined as the holding company(s), any holding company subsidiary(s), a bank or thrift subsidiary of the savings association, and any company controlled by or for the benefit of shareholders or which shares a majority of the same directors with the savings association or holding company. These data generally would not include transactions with subsidiaries of the savings association. Additionally, any transaction by a savings association or its subsidiaries with any person or entity is a transaction with an affiliate if the proceeds of the transaction are used for the benefit of, or transferred to, an affiliate.

The items to be collected are:

- Fees/expenses paid by the thrift to affiliates during the quarter including interest, management and service fees, tax sharing payments, and other general and administrative expenses;
- The amount of assets sold to affiliates during the quarter;
- The outstanding balance at the end of the quarter of:

—Assets purchased from affiliates,
—Commitments to purchase assets from affiliates, and
—extensions of credit to affiliates;

- The percentage of the thrift's directors who are also directors of affiliates; and
- The percentage of the thrift's officers who are also officers of the affiliates.

More complex business plans and increased merger and acquisition activity have changed the nature of the relationship of the thrift with its affiliates. OTS proposes to collect this information for the purpose of off-site monitoring and to more precisely scope its on-site examinations.

30. Average Balance Sheet Data

OTS proposes to add the collection of average balances for the following selected balance sheet items:

- Total assets (SC60);
- Deposits and Investments, excluding cash and non-interest-earning items (SC10 less SC110);
- Mortgage Loans and Mortgage-Backed Securities;
- Nonmortgage Loans;
- Deposits and Escrows; and
- Total Borrowings.

Associations may calculate the average balances based upon close-of-business balances using either all the business days in the quarter or weekly balances, using one day of the week consistently, other than Friday. Associations with less than $100 million in total assets may calculate average balance based upon month-end averages. Average balances for securities would be calculated based upon the following: for debt securities use amortized cost and for equity securities use historical cost, except for those securities held in a trading account for which use determinable fair values. This information would produce more accurate data for use in ratio analysis; would avoid skewed data when restructurings, sales, and acquisitions occur; and would enable calculation of better yield and cost data. The Call Report collects average data in Schedule RC–K.

31. Schedule SB, Small Business Loans

OTS proposes adding a question at the beginning of Schedule SB asking: ''Do you have any small business loans to report in this schedule?'' This question would permit those institutions not required to file this schedule to respond ''no'' and omit the rest of the schedule. Currently institutions must answer the first three questions on Schedule SB even if they have no loans to report.

32. Holding Company Information

More complex business plans, advances in technology, increased merger and acquisition activity, and earnings pressures have changed the nature of the relationship of the thrift with its affiliates. OTS seeks to more fully leverage its collection of holding company information for the purpose of improving off-site monitoring and to more precisely scope its on-site examinations. Therefore, OTS proposes to expand Schedule HC (Thrift Holding Company) to collect additional data on thrift holding companies and intends to substantially reduce the data collection in the H-b(11), the details of which will be announced at a later date. Bank holding companies are excluded from reporting. Schedule HC is not released to the public. The changes to Schedule HC would include:

- Replace the question HC120 (is any company in this holding company's corporate structure required to file periodic securities disclosure documents with the SEC, pursuant to the Securities Exchange Act of 1934?) with a new data item collecting the stock exchange ticker symbol.

- Add SEC number.
- Add web site address.
- For the consolidated entity:

—Add a line for minority interest.
—Replace HC510 (Intangible Assets and Deferred Policy Acquisition Costs) and HC515 (Servicing Assets included in HC510) with three lines: (1) Intangible assets—servicing assets; (2) intangible assets—other; and (3) deferred policy acquisition costs.
—Replace HC520 (Debt Maturing Within the Next 12 Months) and HC530 (All Other Debt) with the three lines: (1) Trust preferred securities; (2) other debt maturing within 12 months; and (3) other debt maturing beyond 12 months.
—Replace HC560 (Interest Expense for the Quarter) with two items: (1) Interest expense on trust preferred securities and (2) interest expense on all other debt.

- Add the following parent-only financial information:

—Total assets
—Total liabilities
—Minority interest
—Total equity
—Net income for the quarter
—Receivable from subsidiaries—Thrift
—Receivable from subsidiaries—Other
—Investment in subsidiaries—Thrift
—Investment in subsidiaries—Other
—Intangible assets—Servicing assets
—Intangible assets—Other
—Deferred policy acquisition costs
—Payable to subsidiaries—Thrift: Transactional
—Payable to subsidiaries—Thrift: Debt
—Payable to subsidiaries—Other: Transactional
—Payable to subsidiaries—Other: Debt
—Other debt maturing within 12 months
—Other debt maturing beyond 12 months
—Dividends received from thrift subsidiaries
—Dividends received from other subsidiaries
—Interest expense—on all other debt
—Other cash and cash equivalents received from thrift during the quarter
—Net cash flow from operations for the quarter.

- Add the following supplemental questions:

—Have any holding company subsidiaries been formed, sold, or dissolved during the quarter?
—Are you or any of your subsidiaries functionally regulated:
  —Registered broker-dealers regulated by the SEC and NASD?
  —Registered investment advisers regulated by the SEC?
  —Registered investment companies regulated by the SEC?
  —Insurance companies and agencies regulated by the states?
  —Entities regulated by the Commodity Futures Trading Commission?
—Has the holding company appointed any new senior executive officers or directors during the quarter?
—Has the holding company entered into a new pledge, or changed the terms and conditions of any existing pledge, of capital stock of any subsidiary savings association that secures short-term or long-term debt or other borrowings of the holding company?
—Have the rights of the holders of any class of securities of the holding company or its subsidiaries changed during the quarter?
—Has there been any default in the payment of principal, interest, a sinking or purchase fund installment, or any other default of the holding company or any of its subsidiaries during the quarter?
—Has there been a change in independent auditors during the quarter?
—Has there been a change during the quarter in the fiscal year-end month?
—Do you or any of your GAAP consolidated subsidiaries (other than the reporting thrift) control other U.S. depository institutions?
  ■ If so, provide the FDIC certificate number.
—Do you or any of your GAAP consolidated subsidiaries control a foreign depository institution?

The holding company would provide this information to the savings association, and the holding company schedule would continue to be filed as part of the TFR.

34. Reporting Frequency of Schedule CSS (Subordinate Organization Schedule)

In 1996, OTS reduced the reporting frequency of Schedule CSS from quarterly to annually in order to reduce reporting burden of the industry. While annual reporting of subordinate organizations was adequate at that time, we now have a need for more frequent reporting and propose to again collect Schedule CSS quarterly. The basic data for all subordinate organizations are contained in the OTS electronic filing software database; therefore, institutions would only be required to make necessary changes to the subordinate organization database and update financial data.

34. Consolidation of Subordinate Organizations

OTS proposes revising Schedule CSS to include the following question: ''Is this entity a GAAP-consolidated subsidiary of the parent savings association?'' The addition of this question would provide information as to whether the assets and liabilities of the subordinate organization are consolidated with the parent savings association in Schedule SC. An institution would respond ''No'' if the subordinate organization was not consolidated and was accounted for using the equity or cost method of accounting.

35. Schedule CCR (Capital Requirement)

OTS proposes to update Schedule CCR by making the following changes:

- Renumber the lines in Tier 1 Capital to be sequential;
- Eliminate the lines that are either obsolete or seldom used;
- Add lines for ''Other'' in each category under Tier 1 Capital and Supplementary Capital;
- Change the caption of CCR125 to ''Minority Interest and REIT Preferred Stock of Includable Consolidated Subsidiaries;'' the instructions for CCR125 were expanded in June 2002 to include REIT preferred stock;
- Change the caption of CCR115 and CCR155 to ''Goodwill and Certain Other Intangible Assets;'' adding the word ''Certain'' to these lines, since servicing rights are included as intangible assets under FASB Statement No. 142 but are not deducted on CCR115 and CCR155.
- Combine CCR408, ''Notes and Obligations of FDIC,'' and CCR410, ''FDIC Covered Assets,'' into one line;
- Expand CCR430, ''20% Risk Weight: High-quality MBS,'' to include asset-backed securities eligible for 20% risk weighting;
- Expand CCR470, ''50% Risk Weight: Other MBS Backed by Qualifying Mortgage Loans,'' to include Asset-Backed Securities eligible for 50% risk weighting; and
- Add a line in the 100% Risk Weight for ''Securities Risk Weighted at 100% Under the Ratings Based Approach.''

The following lines would be eliminated:

- CCR120, ''Nonqualifying Equity Instruments'';
- CCR130, ''Mutual Institutions' Nonwithdrawable Deposit Accounts Reported on SC710'';
- CCR320, ''Capital Certificates;'' and
- CCR330, ''Nonwithdrawable Deposit Accounts Not Reported on CCR130.''

Items that would have been reported on these lines would be included in the new ''Other'' categories. These changes are largely required by regulatory and accounting changes.

36. Shorter Deadlines for TFR, Including Schedules HC and CMR

Savings associations are required to submit their TFR electronically so that OTS receives it no later than thirty days after the quarter-end reporting date. Savings associations have been provided additional time (a total of forty-five days) to complete Schedule CMR (Consolidated Maturity and Rate) a schedule that addresses interest rate risk, and Schedule HC (Thrift Holding Company). This later due date was granted to allow more time in which to receive information from data service providers and holding companies that was needed to complete these schedules. OTS's monitoring and analysis of interest rate risk exposure in individual savings associations and for the thrift industry as a whole and of its holding company and affiliates' activity and exposure is impeded by the delayed submission of these schedules. Furthermore, with the technological advances over the past several years, savings associations have the ability to receive data from their data service providers and from their holding companies on a timelier basis and transmit it conveniently through the Electronic Filing System software provided by OTS. Therefore, OTS proposes to shorten the filing due date for the TFR from thirty (30) to twenty (20) calendar days after the end of the quarter, and for Schedules HC and CMR from forty-five (45) to thirty (30) calendar days after the end of the quarter. This would allow OTS to provide data publicly on an earlier schedule, provide for the compilation and timelier analysis of individual and aggregate statistics on the condition and performance of savings associations, and provide the Uniform Thrift Performance Report (UTPR) to associations on a timelier basis. An earlier deadline for Schedule CMR would also enable OTS to transmit the Interest Rate Risk Exposure Report to reporting associations on a timelier basis. With the advances in technology coupled with the improvements in OTS's electronic filing system software, earlier due dates should not create a significant burden to the industry.

Type of Review: Revision.

Affected Public: Business or for profit.

Estimated Number of Respondents and Recordkeepers: 950.

Estimated Time Per Respondent: 36.4 hours average for quarterly schedules and 1.9 hours average for schedules required only annually plus recordkeeping of an average of one hour per quarter.

Estimated Total Annual Burden Hours: 143,703 hours.

Because some of these proposed changes will not affect all savings associations that file the TFR, the burden hours reflected above may vary from institution to institution. OTS invites comment on how savings associations think the burden would change given these form changes.

Request for Comments: In addition to the issues presented above, comments are invited on:

(a) Whether the proposed revisions to the TFR collections of information are necessary for the proper performance of the agency's functions, including whether the information has 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 information collections on respondents, including through the use of automated collection techniques, the Internet, 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.

OTS will summarize or include comments submitted in response to this notice with the request for OMB approval. All comments will become a matter of public record.

Dated: January 16, 2003.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation Division.

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Part II

Department of Health and Human Services

Centers for Disease Control and Prevention

Chronic Disease Prevention and Health Promotion Programs; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03022]

Chronic Disease Prevention and Health Promotion Programs

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2003 funds for a cooperative agreement program for Chronic Disease Prevention and Health Promotion Programs.

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A. Authority and Catalog of Federal Domestic Assistance Number

Components 1 (Tobacco), 2 (Nutrition, Physical Activity, Obesity), 4 (Oral Disease), 6 (BRFSS), and 7 (Genomics)

This program is authorized under section 301 (a) and 317 (k) (2) of the Public Health Service Act, [42 U.S.C. section 241 (a) and 247b(k) (2), as amended]. The Catalog of Federal Domestic Assistance number is 93.283.

Component 3—WISEWOMAN

This program is authorized under sections 1501–1509 [42 U.S.C. 300k–300n–4a] of the Public Health Service Act, as amended. The consolidated Appropriations Act, 2000, Public Law 106–113, also authorizes this program. The Catalog of Federal Domestic Assistance (CFDA) number is 93.283. See *http://www.cdc.gov/wisewoman/legislationhighlight.htm* for WISEWOMAN authorization and link to BCCEDP legislation.

Component 5—Arthritis

This program is authorized under section 301(a) and 317(k) (2) of the Public Health Service Act, [42 U.S.C. section 241 (a) and 247b(k) (2), as amended]. The Catalog of Federal Domestic Assistance number is 93.945.

B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2003 funds for a cooperative agreement program for Chronic Disease Prevention and Health Promotion Programs. This program addresses the ''Healthy People 2010'' focus areas of Tobacco Use, Physical Activity and Fitness, Nutrition and Overweight, Public Health Infrastructure, Oral Health, Arthritis, Osteoporosis, Back Conditions, Educational and Community-Based Programs, Cancer, Diabetes, Genomics, and Surveillance and Data Systems.

The purpose of the program is to support capacity building, support program planning, development, implementation, evaluation, and surveillance for current and emerging chronic diseases conditions.

The Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP) is issuing this program announcement in an effort to simplify and streamline the grant pre-award and post-award administrative process, provide increased flexibility in the use of funds, measure performance related to each grantee's stated objectives and identify and establish the long-term goals of Health Promotion programs through stated performance measures. These efforts include incorporation of improved performance measures, enhancement of short and long term objectives, combining multiple reports, establishment of consistent reporting requirements, and advancing from one public health program funding level to a higher level based on performance.

This program announcement incorporates funding guidance for the following seven program components: Tobacco; Nutrition, Physical Activity, and Obesity; Well Integrated Screening and Evaluation for Women Across the Nation (WISEWOMAN); State-based Oral Disease Prevention; Arthritis; Behavior Risk Factor Surveillance Systems (BRFSS); and Genomics and Chronic Disease Prevention programs.

CDC encourages recipients to identify opportunities to link chronic disease and health promotion efforts across this and related program announcements, where appropriate (*i.e.* cardiovascular health, diabetes, genomics, tobacco, nutrition and physical activity, obesity, etc.). These efforts could include co-funding of recipient activities and cost sharing of staff time, in support of shared, overlapping objectives across program components and cooperative agreements. Such complementary activities must meet the program objectives of the funded component/program.

Your application should be submitted as one application but should consist of each separate Specific Categorical Component. Applications will be due on March 28, 2003. The categorical components and specific purposes for each are:

Component 1: Comprehensive State-Based Tobacco Prevention and Control Programs—The purpose of this program is to achieve four Program Goals through community interventions and mobilization; counter-marketing; policy development and implementation; and surveillance and evaluation. The goals are: prevent initiation to tobacco use among young people; eliminate exposure to second hand smoke; promote cessation among adults and young people who use tobacco; and identify and eliminate tobacco-related disparities among specific population groups.

Component 2: State Nutrition and Physical Activity Programs to Prevent Obesity and Other Chronic Diseases—The purpose of the program is to prevent and control obesity and other chronic diseases by supporting States in the development and implementation of science-based nutrition and physical activity interventions. Major program areas are: balancing caloric intake and expenditure; improved nutrition through increased breastfeeding and increased consumption of fruits and vegetables; increased physical activity; and reduced television time. See Goals at *http://www.cdc.gov/nccdphp/dnpa/rfainformation.htm.*

Component 3: Well integrated Screening and Evaluation for Women Across the Nation (WISEWOMAN)—The purpose of this program is to support health promotion efforts through the WISEWOMAN program, focusing on early detection of chronic diseases and their associated risk factors and prevention of chronic diseases through lifestyle interventions. The WISEWOMAN program promotes a healthy lifestyle through increased physical activity, improved nutrition, weight control, and smoking cessation. The target population is women aged 40–64 years old who are participants in the National Breast and Cervical Cancer Early Detection Program (NBCCEDP) comprehensive screening programs funded by the Centers for Disease Control and Prevention (CDC). Because eligibility for the NBCCEDP is based on inadequate health insurance coverage and lack of financial resources, the WISEWOMAN program aims to increase access to quality care through screening

for conditions such as high cholesterol and high blood pressure using methods detailed in national clinical guidelines. Along with lifestyle interventions, medical referral and follow-up are also important components of the program.

Component 4: State-Based Oral Disease Prevention Programs—The purpose of this program is to establish, strengthen and expand the capacity of States, Territories, and tribes to plan, implement, and evaluate population-based oral disease prevention and health promotion programs, targeting populations and oral disease burden, as outlined in ''Oral Health in America: A Report of the Surgeon General,'' and can be found using the following link *http://www.surgeongeneral.gov/library/oralhealth.*

Component 5: Arthritis—The purpose of this program is to assist States in developing, implementing, and evaluating State level programs to control of arthritis and other rheumatic conditions. This program emphasizes State-based leadership in coordinating State Health Department capacity to reduce the burden of arthritis within the State. Programmatic efforts should focus on persons affected by arthritis, *i.e.*, persons already experiencing the systems of arthritis, their families, and others treating or providing services for persons with arthritis. By targeting persons affected by arthritis, prevention strategies are secondary and tertiary, focusing on prevention of disability and improving quality of life. There will be two levels of activities for this component: Capacity Building Program Level A and Capacity Building Level B. See ''Recipient Activities'' for specific activities for each level.

Component 6: Behavior Risk Factor Surveillance Systems (BRFSS)—The purpose of this program is to provide financial and programmatic assistance to State Health Departments to maintain and expand (1) specific surveillance using telephone survey methodology of the behaviors of the general population that contribute to the occurrence of prevention of chronic diseases and injuries, and (2) the collection, analysis, and dissemination of BRFSS data to State categorical programs for their use in assessing trends, directing program planning, evaluating programs, establishing program priorities, developing policy, and targeting relevant population groups.

Component 7: Genomics and Chronic Disease Prevention—The purpose of the program is to assist States in developing agency-level genomics leadership and coordination capacity that ensures effective planning, implementation and evaluation of knowledge and tools for using genetic risk factors and family history in improving chronic disease prevention and health outcomes. The study of genes and their function has led to recent advances in genomics and our understanding of the molecular mechanisms of disease, including the complex interplay of genetic and environmental factors. This program requires the integration of genomics and family history assessments into ongoing and new population-based strategies for identifying and reducing the burden of specific chronic, infectious and other diseases. Of particular importance is enhanced planning and coordination to integrate genomics into core State public health specialties of genomics within State core public health specialties (such as epidemiology, laboratory activities, and environmental health) and to facilitate the effective application of new knowledge, enable effective application of new knowledge about gene-environment interactions, and crosscutting family history information to chronic disease prevention opportunities.

Note: The following statements are applicable for all Components: Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the National Center for Disease Prevention and Health Promotion (NCCDPHP): Reduce cigarette smoking among youth; support prevention research to develop sustainable and transferable community-based behavioral interventions; increase the capacity of State arthritis programs to address the prevention of arthritis and its complications at the community level; help States monitor the prevalence of major behavioral risks associated with premature morbidity and mortality in adults to improve the planning, implementation, and evaluation of disease prevention and health promotion programs; support high-priority State and local disease prevention and health promotion programs, and to help State use genetic information in their public health programs.

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the grant or cooperative agreement. Measures of effectiveness must relate to the performance goal (or goals) as stated in section ''B. Purpose'' of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness shall be submitted with the application and shall be an element of evaluation.

C. Eligible Applicants

Limited Competition

Assistance will be provided only to the health departments of States or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and Federally recognized Indian tribal governments. A bona fide agent is an agency/organization identified by the State as eligible to submit an application under the State eligibility in lieu of a state application.

All applications received from current grant recipients under Program Announcements 99038, Component 1, (Comprehensive State-Based Tobacco Use Prevention and Control Programs); 00115 and 99135, Component 3 (Well Integrated Screening and Evaluation for Women Across the Nation WISEWOMAN) and 01098 (WISEWOMAN Enhanced); 01046, Component 4 (Support for State Oral Disease Prevention Programs); 01097, Component 5 (Reducing the Impact of Arthritis and Other Rheumatic Conditions); 99044, Component 6, (Behavior Risk Factor Surveillance Systems) will be funded upon receipt and approval of a technically acceptable application. In addition to the eligible applicants above, potential applicants that are eligible for specific components 2, 3, 4, 5, 6, and 7 are:

Component 2—State Nutrition and Physical Activity Programs to Prevent Obesity and Other Chronic Diseases: Eligibility for this component is limited to States, Territories, and the District of Columbia. Applicants can apply for either or both programs, ''Capacity Building or Basic Implementation funding.'' Applicants awarded Basic Implementation funds will not be considered for Capacity funding. Applicants applying for both programs must submit two separate applications for this component.

Component 3—WISEWOMAN: Assistance will be provided only to the health departments of certain States/Territories/Tribes or their bona fide agents who are currently receiving grants under Section 1501 of the Public Health Service Act. Applicants are eligible for one of two levels of funding for one of two types of projects, Standard or Enhanced (see Appendix A: Eligibility and Appendix B: Type of Program and Performance Requirements for more details).

Component 4—State-Based Oral Disease Prevention Programs: The 13 States currently receiving CDC funds for CORE Programs under Program Announcement 01046 are eligible to apply for Part 1 Capacity Building Program: Alaska, Arkansas, Colorado, Illinois, Michigan, New York, Nevada,

North Dakota, Oregon, the Republic of Palau, Rhode Island, South Carolina, and Texas.

Current CORE Program grantees that apply for Basic Implementation Program funding in year two and are not funded will continue to receive funding for the CORE (Capacity Building) Program. To make this possible, currently funded CORE (Capacity Building) Program grantees must provide a separate CORE (Capacity Building) Program Logic Model, Work Plan, budget, and budget justifications that addresses CORE (Capacity Building) Program activities to expedite the award process.

Component 5—Arthritis: The only eligible applicants for Capacity Building Level B Funding during year one of this program announcement are the following 27 States which are currently funded under Program Announcement 01097, Reducing the Impact of Arthritis and Other Rheumatic Conditions: Alaska, Arizona, Arkansas, Colorado, Connecticut, Idaho, Indiana, Iowa, Kentucky, Maryland, Michigan, Nebraska, Nevada, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, and Wisconsin. These States may not apply for Capacity Building Program Level A funding during year one of this announcement.

Eligible applicants for Capacity Building Program Level A are those currently funded under Program Announcement 99074 and health departments other than those listed above who meet the requirements outlined in the ''Recipient Activities'' section of this Component for Capacity Building Program Level B and Capacity Program Level A.

Component 6—Behavior Risk Factor Surveillance Systems (BRFSS): Assistance will be provided only to the existing 54 health departments funded under the Behavioral Risk Factor Surveillance, Program Announcement Number 99044.

Component 7—Genomics: Assistance will be provided only to the health departments of States or their bona fide agents. A *bona fide* agent is an agency/organization identified by the state as eligible to submit an application under the State eligibility in lieu of a State application.

D. Availability of Funds

Approximately $91,700,000 is available in FY 2003 to fund approximately 194 awards.

It is expected that the awards will begin on or about June 30, 2003 and will be made for a 12-month budget period within a project period of up to five years.

Pending availability of funds, beginning in year two and each of the remaining years for this program announcement (June 30, 2004 through June 30, 2008), there will be an open season for competitive applications. Specific guidance will be provided with exact due dates and funding levels each year.

Applications from all new applicants as well as all currently funded programs, whose project period have ended or will end in FY 2003, will be competitively reviewed by an independent Objective Review Panel.

Continuation awards for year two and beyond will be made on the basis of satisfactory progress made toward the attainment of the goals, objectives, and corresponding performance measures as evidenced by required reports, and based on the availability of funds. Additional information is listed on a component-by-component basis.

Component 1: Comprehensive State-Based Basic Tobacco Prevention and Control Programs

D.1. Availability of Funds

Approximately $57 million is available in FY 2003 to fund 59 awards.

In year one, States and Territories currently funded under program announcement 99038 should apply for the same base amount that is currently received on a non-competitive basis. Applicants should refer to ''Recipient Financial Participation'' for information on required matching funds. The remaining unfunded Territory is Marshall Island that is eligible to apply for funds in the amount of $100,000 to $125,000. If Marshall Island submits an application, it will be reviewed under a competitive review process.

Continuation award amounts may be adjusted should a State receive lawsuit settlement funds, general funds, or excise tax funds for the State's comprehensive program.

Use of Funds

CDC funds cannot be used to supplant existing State funding. Applicants may not use these funds to supplant funds from Federal or State sources, the Preventive Health and Health Service Block Grant or Center for Substance Abuse Prevention funding for youth access enforcement. Applicants must maintain current levels of support dedicated to tobacco use prevention and control from Federal, State sources, or the Preventive Health and Health Services Block Grant.

Funds may not be used to conduct research. Surveillance and evaluation activities are for the purposes of monitoring program performance, and are not considered research.

Cooperative agreement funds must be used for focused strategies to change systems, develop and implement policies, change the environment in which tobacco use occurs, and impact population groups rather than individuals. To this end, cooperative agreement funds may not be used to provide direct services such as individual and group cessation services, patient care, personal health services medications, patient rehabilitation, or other costs associated with the treatment of diseases caused by tobacco use. Funds may be used to support activities in line with CDC ''Guidelines for School Health Program to Prevent Tobacco Use and Addiction'' including curricula but may not be used for staff time to provide direct classroom instruction of students. Cooperative agreement funds may not be used to directly enforce tobacco control policies unless there are extenuating circumstances within the State. A justification must be provided and reviewed.

Recipient Financial Participation

Federal sources as follows. During the first year of the award, States receiving funding from another source(s) that is equal to or greater than the CDC award will match one dollar of direct cash match from non-Federal sources for every dollar of Federal funds. All other States and Territories that do not receive funds from non-Federal sources that are equal to or greater than the CDC award will provide one dollar of cash or in-kind match from non-Federal sources for every ten dollars of Federal funds.

Beginning in the second year and in each subsequent year of the award, all States and Territories will provide one dollar from non-Federal sources for every four dollars of Federal funding. The match may be cash, in-kind, or a combination from State and/or public and private sources.

Technical assistance will be available for potential applicants through the following means: a minimum of two conference calls to be held on or around December 12, 2002 and January 10, 2003.

E.1. Program Requirements

In conducting activities to achieve the purpose of this program component, the recipient will be responsible for the activities under ''1. Recipient Activities,'' and CDC will be responsible for the activities listed under ''2. CDC Activities.''

1. Recipient Activities. a. Program Management. Identify and hire staff with the appropriate competencies to manage a tobacco prevention and control program and provide information to demonstrate that management staff are at a level within the agency to affect the decision making process related to the tobacco program.

A suggested minimum number of staff would be seven FTEs including one FTE Program Manager and one FTE for administrative support. Staff should have knowledge and skills in: Program development, coordination and management; fiscal management including management of funding to State and local partners; leadership development; tobacco control and prevention content; cultural competence; public health policy including analysis, development and implementation; community outreach and mobilization; training and technical assistance, health communications including counter-marketing; strategic use of media including media advocacy, earned and paid media; strategic planning; gathering and analyzing data (surveillance); and evaluation methods.

Funding from other sources increases the scope of the program, requiring additional staff to administer and monitor the program. A suggested number of staff based on increased funding levels would be an additional one to eight FTEs for a total of eight to sixteen FTEs with program justification including description of activities funded through other sources. The Program Manager and the administrative support position should be FTEs within the State Health Department (SHD). Other positions may be SHD FTEs or may be contractual.

Performance will be measured by evidence that the SHD has dedicated human resources to administer and manage the program effectively that is consistent with the competencies and staffing levels identified above in item (a) ''Program Management.''

Evidence of the provision of ongoing training for staff can be demonstrated through staff participation in CDC sponsored training, meetings and conferences and other continuing education opportunities as identified by SHD program staff.

Evidence of organizational impact could be demonstrated by providing evidence that management staff have organizational access to the State Health Officer and by providing information to support senior level management involvement in the tobacco program.

b. Fiscal Management. 1. Describe how funding to support State and local programs that focus on population-based strategies, are science-based and policy-focused, and reach diverse groups will be accomplished.

2. Track and monitor the health and economic burden of tobacco use in the State through surveillance and evaluation activities, program activities supporting goals and objectives, tracking policy development and implementation.

Performance will be measured by evidence that the SHD activities resulted in accomplishment of items (a) through (d) above.

c. Strategic Planning. Develop a five-year strategic plan with active participation of State and local partners. The strategic plan should reflect all tobacco prevention and control activities in the State. It should be linked to and complement the SHD comprehensive cancer control plan, the cardiovascular health plan and other SHD plans to reduce tobacco-related chronic diseases. The five-year strategic plan should include: Description of evidence-based program and policy strategies tailored to data determined State needs; a logic model linking activities to outputs and short-term and intermediate outcomes using specific, measurable, achievable, relevant, and time bound program objectives; program evaluation activities including a summary and time-line for data collection activities; program components that address counter-marketing and strategic use of media advocacy and paid media when appropriate); strategies to address the four program goal areas.

Performance will be measured by evidence that a five-year basic implementation, strategic State tobacco control plan has been developed and will be updated based on environmental changes. Evidence can be shown by a description of how the plan was developed and the submission of a plan that is consistent with the activities described above in item (a) ''Strategic Planning.''

d. Surveillance and Evaluation. Develop and implement a basic implementation evaluation plan with stakeholder's involvement. The evaluation plan should include clear goal-based logic models, with outputs, short, intermediate, and long-term objectives; data collection on key tobacco-related indicators using valid methods that are comparable across States; data collection timetables, the production and dissemination of evaluation reports and establishment of a method to track the number and type of policy and systems changes that promote cessation. References U.S. HHS CDC ''Introduction to Program Evaluation for Comprehensive Tobacco Control Programs, November 2001'' and the upcoming report on key indicators that can be used to monitor and evaluate State level tobacco control programs (expected publication date: Spring 2003) for additional information.

Performance will be measured by accomplishment of the activities described above in item (a) ''Surveillance and Evaluation'' and by providing the following evidence: A description of a comprehensive evaluation plan, including the involvement of stakeholders in the evaluation planning process; recommendations made and/or actions taken by an advisory group or task force composed of diverse State and local representation; a description of the data collection activities, including methodologies and data analysis; a description of process and outcome objectives and indicators to be used in program evaluation; a description of the SHD's role in coordinating surveillance and evaluation efforts and providing technical assistance and training on program monitoring, data collection, and evaluation; the production of useful evaluation reports, and the utilization of evaluation findings to improve, expand, or maintain the tobacco control program.

e. Collaboration and Communication with Partners. Develop and maintain Statewide and local active partnerships that support the goal of reducing or eliminating the health and economic burden of tobacco use and an effective communication system with partners at the State and local level. Partnerships may include Statewide and local organizations, voluntary health organizations, universities, local health departments, organizations that represent diverse communities, community based organizations, Statewide and local coalition, and boards commissions, and advisory groups with responsibility for the State Tobacco Control Program. Working with partners includes capacity building with those organizations through technical assistance, training and educational activities.

Performance will be measured by accomplishment of the activities described above in item (a) ''Collaboration and Communication with Partners'' and by providing the following evidence: Submission of letters of support that clearly define the level of commitment from the organization; description of grants, contacts, and memoranda of understanding; membership lists; active participation in meetings; clear role definitions for partners; active

participation in Statewide and local planning including media campaigns, tobacco control plans, and conference. Evidence can be shown by: Description of stakeholder communication plan which employs multiple channels including Statewide list serve; Statewide conference, trainings, and information exchanges; electronic newsletters and updates; Statewide teleconferences; Web site postings; site visits; and videos.

f. Local Grant Programs. Support local programs to establish grassroots networks at the community level. Support should be sufficient for designated staff at the local level to establish and participate in local coalitions, partnerships, and task forces for local policy development and implementation; local environmental scan; development and implementation of a written plan to work toward policy goals and participation in State participation in State evaluation and data collection efforts; access to tobacco control information through a variety of sources such as journals, Internet Web sites and list serves. Refer to U.S. HHS, CDC ''Best Practices for Comprehensive Tobacco Control Programs-August 1999,'' and American Journal of Preventive Medicine ''Community Prevention Services Guidelines for Tobacco Use, February 2001'' for information about local programs.

Performance will be measured by accomplishment of the activities described above in item (a) ''Local grant program.''

g. Training and Technical Assistance. Develop and implement a technical assistance and training process to address the needs of local health department staff, coalitions, and partners involved in tobacco prevention and control activities.

Performance will be measured by evidence that training and technical assistance needs have been assessed and provided by the State Tobacco Control Program to local health department staff, coalitions, and partners. Evidence can be shown by: The number and description of trainings planned and/or provided that include the strategic purpose of the trainings and anticipated impacts as related to short-term and long-term outcomes, description of the process and strategy to provide technical assistance.

h. Prevent Initiation of Tobacco Use Among Young People. Develop and implement science-based policy-focused strategies identified in the State strategic plan to prevent youth initiation of tobacco use.

Performance will be measured by accomplishment of the activities described above in item ''(a) Prevent Initiation to Tobacco Use Among Young People.'' Evidence can be shown by describing: Multi-component community interventions to reduce youth initiation that are science-based and policy focused such as price increase for tobacco products; educational activities that address the efficacy of policy initiatives such as restrictions on tobacco advertising, promotion and sponsorships and retailer licensing regulations; tobacco-free school policies school policies; identification of disparities related to youth initiation to tobacco use; partnerships with State and local education organizations to promote CDC ''Guidelines for School Health Programs to Prevent Tobacco Use and Addiction;'' Counter-marketing strategies that include media advocacy and paid advertising to disseminate messages regarding youth access; pro-health messages; State evaluation and data collection efforts to demonstrate local programs toward policies to reduce youth initiation.

i. Eliminate Exposure to Second Hand Smoke. Develop and implement science-based policy-focused strategies to reduce exposure to second hand smoke.

Performance will be measured by accomplishment of the activities described above in item (a) ''Eliminate Exposure to Secondhand Smoke.'' Evidence can be shown by describing: Local coalition objectives and evidence-based activities that are linked to a policy change leading to short-term and long-term outcomes as identified within the State plan; counter-marketing strategies that are supportive of local policy efforts, including both earned and paid media and the numbers of people reached through earned and paid media strategies; recommendations made and/or actions taken by an advisory group or task force composed of diverse State and local representation; a description of disparities related to exposure to secondhand smoke and strategies to reduce those disparities; actions taken to expand policy coverage to new communities and/or to strengthen policies in communities where they are already in place. Evidence can also be shown by a State-specific database that tracks local clean indoor air ordinances work, where pre-emption exists, voluntary policies and reporting of the number of policies implemented; State evaluation and data collection efforts to demonstrate local progress toward policies to eliminate exposure to secondhand smoke.

j. Promote Cessation Among Adults and Youth. Implement science-based policy-focused strategies as defined in the State strategic plan to promote cessation among adults and youth.

Performance will be measured by accomplishment of the activities described above in item ''(a) Promote Cessation Among Adults and Youth.'' Evidence can be shown by describing: Strategies to promote guidelines published in ''U.S. DHHS Public Health Services Treating Tobacco Use and Dependence'' and ''Community Prevention Services Guidelines for Tobacco Use;'' strategies to reduce identified disparities; counter-marketing strategies that incorporate earned and paid media to provide information about and motivation for quitting and reach diverse populations and the number of people reached with paid media; Statewide activities, as detailed in the State strategic plan, to promote effective methods for quitting including support for and promotion of policy development and initiatives related to cessation services; links between the State program and other organizations to support and promote cessation.

k. Identify and Eliminate Tobacco-related Disparities among Specific Population Groups. Identify and eliminate disparities in specific population groups related to (1) preventing initiation among young people; (2) eliminating exposure to secondhand smoke; and (3) promoting cessation among adults and youth.

Performance will be measured by accomplishment of activities in item (a) ''Identify and eliminate tobacco-related disparities among specific population groups.'' Evidence can be shown by: Assessing national data sources and research related to at-risk populations; outlining demographics reflecting Statewide diversity; coordinating available State and national data with at-risk populations in the State; augmenting State data with qualitative data (*i.e.* population assessments of specific population groups); examining the potential limitations of data used; identifying and developing new quantitative and qualitative-based methodologies for data collection among specific population groups, developing strategies and initiatives to build capacity and infrastructure among disparately-affected population groups. If States have participated in the Office on Smoking and Health's Disparities Pilot Training, additional evidence can be shown by demonstrating the implementation of interventions based on strategic plan to identify and eliminate tobacco-related disparities

developed by a diverse and inclusive workgroup.

1. Information Exchange. Develop and implement mechanisms to facilitate information exchange between the State Tobacco Control Program, the CDC, tobacco control program personnel in other States, and national partners.

Performance will be measured by accomplishment of the activities described above in item (a) ''Information Exchange.''

Evidence can be shown by: Establishing a communication loop with CDC for the exchange and dissemination of information about program effectiveness, progress toward short and long-term objectives as defined in the strategic plan; participation on CDC sponsored workgroups/task forces and the frequency of that participation, number of presentations at national meetings and conferences, number of publications of data and evaluation outcomes via ''Morbidity and Mortality Weekly Report'' (MMWR), peer-reviewed journals or as reports, number of reports on collaboration with programs and partners in neighboring States; posting information and resources on the CDC State forum; participation with Association of State Territorial Health Officers (ASTHO) regional networks and Tobacco Control Resource council and/or other tobacco-related projects sponsored by ASTHO.

2. CDC Activities. a. Provide ongoing guidance, consultation, technical assistance, and training in tobacco use prevention and control as described under ''Recipient Activities.''

b. Provide up-to-date information that includes diffusion of best practices for tobacco use prevention and control.

c. Provide resources and technical assistance to develop and improve monitoring and surveillance systems. Provide guidance to States to identify indicators that can be used to monitor and evaluate State level tobacco control programs.

d. Facilitate adoption of effective practices among grantees and other partners through workshops, conferences, training sessions, electronic and verbal communications.

e. Identify, develop, and disseminate media campaign materials for use by programs; facilitate coordination of counter advertising materials between programs; provide technical assistance on design, development, and evaluation of media.

f. Maintain an electronic center for State information sharing, State Forum, and the Chronicle, for progress reporting.

g. Develop and maintain partnerships with Federal and non-Federal organizations to assist in tobacco control and create a national infrastructure to complement State infrastructure.

h. Serve as a resource to States with regard to identifying and eliminating tobacco-related disparities among population groups.

i. Maintain a Web site with access to a data warehouse that contains comparable measures of tobacco use prevention and control from different data sources.

F.1. Content

The program announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative for this component, including the Executive Summary, should be no more than 45 double-spaced pages, printed on one side, with one-inch margins, and unreduced 12-point font. The annual action plan may be 20 pages, which will allow a total of 65 pages for the application (excluding budget and appendices). Appendices should total no more than 20 pages, excluding letters of support and the budget.

Focus the application content ONLY on the planned ''Recipient Activities'' for which you seek CDC funding. However, the Background and Need content should describe accomplishments regardless of funding source. Include a description of why CDC funding is needed and how these funds will be used strategically to complement other funding sources.

Provide supporting documentation such as resumes, job descriptions, and descriptions of coalitions and committees as appropriate. All materials must be suitable for photocopying.

1. Executive Summary. Provide a narrative, not to exceed two pages and summarize: The environment in which tobacco control has been conducted, including barriers and supportive factors; accomplishments; anticipated needs; plans to address the Program Goals. Indicate major areas of future program focus.

2. Program Narrative. Provide a narrative, not to exceed 43 pages, describing the burden of tobacco use, accomplishments to date, and areas of unmet needs. Provide specific reference to the following elements of State health department tobacco control program.

a. Background and Need. Describe the burden of tobacco use including prevalence rates and the economic costs of tobacco use. Describe existing policies at the State and local level. Describe progress toward reducing the burden of tobacco use. Describe major tobacco control activities conducted in the State and how CDC funds will enhance these programs as well as other chronic disease and health promotion areas. Describe, if applicable, the impact of State budget cuts on program priorities and activities that will not be accomplished.

b. State Health Department Infrastructure and Program Management. Describe current staff. Describe plans to develop a staffing pattern consisting of qualified technical, program, and administrative staff that are diverse and representative of the State population. Describe how program staff will have access to opportunities for professional training. Describe how the staffing pattern will enable sharing of information, resources, and materials with CDC and the national program. Describe how involvement of senior management and communication with the State Health Officer will be assured.

3. Organization. Provide an organizational chart showing placement of the tobacco control program within the organization, indicating accountability and lines of communication.

4. Fiscal Management. Describe plans to fill vacancies to minimize start-up delays, assure out-of-State travel, and administer funds to governmental and non-governmental entities at the State and local level. Describe accomplishments and barriers in providing funding to support State efforts. Describe accomplishments and barriers in providing funding to support State efforts. Describe accomplishments and barriers in filling staff vacancies, supporting out-of-State travel, and reducing start-up delays. Describe a plan for maintaining adequate staffing to administer the program should budget cuts, hiring freezes, etc. occur.

5. Strategic Plan. Provide a copy of the five-year comprehensive strategy that meets the criteria in Recipient Activities (2) Strategic Planning and describe how the plan was developed based on the process in Recipient Activities (2). Demonstrate how the plan links to and complements the SHD's comprehensive cancer control plan, the cardiovascular health plan, and other SHD plans to reduce tobacco-related chronic diseases. If a comprehensive strategic plan does not currently exist, describe how a plan will be developed and the expected completion date. Describe the process by which the strategic plan will be updated. Indicate

who will be responsible for maintaining the plan.

6. Surveillance and Evaluation. Describe accomplishments. List the tracking systems used and/or needed at the State and local levels. Describe surveillance and evaluation activities currently being undertaken. Refer to U.S. HHS CDC ''Introduction to Program Evaluation for Comprehensive Tobacco Control Programs, November 2001.'' Describe involvement of stakeholders or advisory group in development of surveillance and evaluation approach. Describe barriers and identify methods to overcome them. Describe unmet needs and plans to address them.

7. Collaboration and Partnerships. Describe plans to develop, strengthen and maintain partnerships and coalitions through linkages with other national, regional, State, and local level governmental, and non-governmental entities. Specify partner organizations and the purpose of those partnerships. Describe current State coalition members and plans to recruit new members. Describe plans to identify new partners including proposed partners and purpose of partnerships. Describe plans to maintain and strengthen participation by groups identified as experiencing tobacco related health disparities.

Describe plans to collaborate with CDC and other Federal agencies, including participation in national or regional meetings and workgroups, and using the Internet to communicate and disseminate information.

Describe how the State's and partners' roles will complement each other as part of the overall effort. Provide letters of support demonstrating collaborative activities, roles, responsibilities, and/or commitment of funds or other resources.

Describe communication methods and channels used to inform and solicit information from stakeholders. Describe how the stakeholder communication plan was developed. Describe barriers in communicating with stakeholders. Describe plans to improve communication.

8. Local Grant Programs. Describe existing local grants programs including funded organizations and level of funding, policy-focused activities, and collaboration with partners, and participation in coalitions. Describe the rationale for funding local organizations. Describe local environmental scans and how the scans inform a planning process. Describe progress toward policy goals and objectives. Describe how personnel access tobacco control information. Describe barriers and methods to address them. Describe unmet needs and plans to address them. If a local grants program does not currently exist, describe how such a program will be developed and implemented, including a timeline for implementation, a description of the grant process and eligible organizations.

9. Training and Technical Assistance. Describe the audiences for whom training and technical assistance is provided. Describe how training and technical assistance needs will be determined. Describe activities and how they contribute to advancing the program goals and objectives. Describe barriers and methods used to overcome them. Identify unmet needs and plans to address them.

10. Prevention Initiation of Tobacco Use Among Youth. Describe activities at the State and local level, including activities that are science-based and promote policy interventions. Describe activities to promote tobacco-free policy in schools. Describe surveillance and evaluation activities. Describe barriers and identify methods to overcome them. Describe unmet needs and plans to address them.

11. Eliminate Exposure to Secondhand Smoke. Describe activities to move toward policy development at the local level, identify and eliminate disparities, collect and analyze data, conduct counter-marketing. Describe activities undertaken by State and local coalitions/task forces and partnerships. Describe barriers and identify methods to overcome them. Describe unmet needs and plans to address them.

12. Promote Cessation for Adults and Youth. Describe activities and strategies to promote science-based cessation services and policies. Applicants should refer to the ''Community Prevention Services Guidelines for Tobacco Use'' and ''U.S. DHHS Public Health Services Treating Tobacco Use and Dependence.'' Describe disparities and strategies to reduce them. Describe methods used to promote and encourage cessation, including counter-marketing, policy development, and implementation, and population-based and systems change strategies. Describe barriers and methods to overcome them. Describe unmet needs and plans to address them.

13. Identify and Eliminate Tobacco-Related Disparities in Specific Populations. Describe the process for identifying and eliminating tobacco-related disparities. Include a description of: the national and/or State data sources used; the State population demographics; rationale for addressing tobacco-related disparities in specific population groups; specific strategies and initiatives to build capacity and infrastructure among disparately-affected population group. Describe the process for developing a strategic plan, if one exists, including who was involved and progress in implementation. Attach a copy of the plan.

14. Information Exchange. Describe how State personnel communicate and exchange information with Federal, regional, State, and local tobacco control personnel in government and partner organizations. Describe participation in and collaboration with State and national organizations. Describe participation in local, State, regional, and national conferences and meetings and the benefits accrued. Describe barriers and identify methods to overcome them. Describe unmet needs and plans to address them.

15. Annual Action Plan (no more than 20 pages). Submit an annual action plan detailing how the above requirements will be addressed. Include objectives with indicators and data sources. When writing long-term, intermediate, short-term, and annual objectives, use specific, measurable, achievable, relevant, and time-bound (SMART) objectives. For each of the four program components in the Annual Action Plan, indicate key activities. For each activity, include the target group, lead role, timeline, and anticipated output. The Annual Action Plan: Program Goals form can be used to complete this requirement and will be provided at the pre-application workshop.

16. Budget and Accompanying Justification (no page limit). Provide a line-item budget and justification consistent with the stated objectives, planned activities, and time frame of the project. Identify matching funds. Matching funds may be cash, in-kind or donated services or a combination of these made directly or through donations from public or private entities. All costs used to satisfy the matching requirements must be documented by the applicant. Commit a minimum of 10 percent of award to surveillance and evaluation efforts. Program resources may be used for consultants; staff, survey design and implementation, data analysis, or other expenses associated with surveillance and evaluation efforts. These activities may fulfill the match requirement.

A maximum of five percent of the award may be used to directly support a statewide telephone cessation counseling service with program justification.

Include travel for a minimum of three staff members or selected representatives to attend each of two CDC-sponsored training meetings per

year, one staff person to attend a media training, a minimum of two staff people to attend one CDC-sponsored Program Management meeting, a minimum of two staff people to attend a training on the NTCP Chronicle, and a minimum of two staff people to attend the CDC-sponsored national tobacco control conference. For purposes of planning, these meetings/conferences should be budgeted for travel to Atlanta, Boston, and Phoenix.

Meeting	Number of staff	Location
CDC sponsored training meeting (surveillance and evaluation)	3	Atlanta, GA.
CDC sponsored media training	1	Atlanta, GA.
OSH Program managers meeting	2	Atlanta, GA.
OSH NCTP Chronicle training	2	Atlanta GA.
CDC sponsored national training program	3	Phoenix, AZ.
CDC sponsored national tobacco control conference	2	Boston, MA.

States and Territories can request that CDC cover the travel costs of out-of-State trainings and meetings for one staff person per required meeting or conference. If a State program elects to have CDC cover travel costs, clearly state that the program is electing this option and provide an estimated expense for travel. Under this arrangement, the State award will be reduced by the amount estimated for travel plus an additional administrative cost.

G.1. Evaluation Criteria

Application. Applications received from current grantees that are funded under Program Announcement 99038 will be reviewed utilizing the Technical Review process. Total possible points equal one hundred. Total points = 100.

a. Background and Need (12 points). The extent to which the applicant describes Background and Need in Application Content, 2a.

b. Annual Action Plan (11 points). The extent to which the annual action plan is based on the strategic plan and include activities in line with Recipient Activities and Application Content for tobacco control program.

c. Program Management (7 points). The extent to which the applicant describes specific Recipient Activities in section 1a–d above and activities in Application Content, 2b.

d. Strategic Plan (7 points). The extent to which the applicant has addressed specific Recipient Activities in Section (2); and Application Content, b 5.

e. Surveillance and Evaluation (7 points). The extent to which the applicant clearly describes specific Recipient Activities in Section (3); and Application Content, b 6.

f. Collaboration and Communication with Partners (7 points). The extent to which the applicant describes specific Recipient Activities in Section (4a); and Application Content, b 7.

g. Local Grant Programs (7 points). The extent to which the applicant describes specific Recipient Activities, Section (5); and Application Content, b 8.

h. Training and Technical Assistance (7 points). The extent to which the applicant demonstrates specific Recipient Activities in Section (6); and Application Content, b 9.

i. Prevent Initiation to Tobacco Use Among Young People (7 points). The extent to which the applicant describes specific Recipient Activities in Section (7a); and Application Content, b 10.

j. Eliminate Exposure to Secondhand Smoke (7 points). The extent to which the applicant describes specific Recipient Activities in Section (8a); and Application Content, b 11.

k. Promote Cessation Among Adults and Young People (7 points). The extent to which the applicant describes specific Recipient Activities in Section (9a); and Application Content, b 12.

l. Identify and Eliminate Tobacco-Related Disparities Among Specific Population Groups (7 points). The extent to which the applicant describes specific Recipient Activities in Section (10a); and Application Content, b 13.

m. Information Exchange (7 points). The extent to which the applicant describes specific Recipient Activities in Section (11) and Application Content, b 14.

n. Executive Summary (not scored). The extent to which an overview of the program is provided in a clear and concise manner.

Component 2: State Nutrition and Physical Activity Programs to Prevent Obesity and Other Chronic Diseases

D.2. Availability of Funds

Approximately $7,000,000 is available in FY 2003 to fund approximately 16 State program awards for this component. Approximately $2,000,000 is available to fund one to two Basic Implementation Programs; approximately $5,000,000 is available to fund twelve to fourteen Capacity Building Programs. The average Capacity Building Program award will be $400,000 ranging from $350,000 to $450,000. The average Basic Implementation Program award will be $700,000 in year one ranging from $600,000 to $800,000.

Use of Funds

Funds awarded under this component of this program announcement may not be used to supplant existing State or local funds. Cooperative agreement funds may be used to support personnel and to purchase equipment, supplies, and services directly related to program activities and consistent with the scope of the cooperative agreement. Cooperative agreement funds cannot be used to provide patient care, health screening, personal health services, medications, patient rehabilitation, or other costs associated with the treatment of obesity and chronic diseases. Population-based behavioral interventions are acceptable.

Recipient Financial Participation

Recipient financial participation (matching funds) is required for only Basic Implementation programs in accordance with this Program Announcement. If applying for Basic Implementation programs, matching funds are required from non-Federal sources in an amount not less than one dollar for each four dollars. The matching funds may be cash or its equivalent in-kind or donated services, fairly evaluated. The contribution may be made directly or through donations from public or private entities.

Matching funds may not be met through: (1) The payment of treatment services or the donation of treatment, or direct patient education services; (2) services assisted or subsidized by the Federal Government; or (3) the indirect or overhead of an organization. Matching funds must be consistent with the work plan activities that are submitted and approved.

E.2. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities

under 1.a. (Recipient Activities for Capacity Building Program) or 1.b. (Recipient Activities for Basic Implementation Programs) and CDC will be responsible for the activities listed under 2. (CDC Activities).

The focus of this program component is implementation of nutrition and physical activity strategies for health promotion for the entire population and for the prevention and control of obesity. Major program areas are: obesity prevention and control including balancing caloric intake and expenditure; improved nutrition including increased breastfeeding and increased consumption of fruits and vegetables, increased physical activity; and reduced television time. For all capacity building and basic implementation program recipient activities, efforts to address poor nutrition and physical inactivity should be coordinated with State Health Agency programs in cardiovascular health, cancer, diabetes, oral health, maternal and child health (including breastfeeding), arthritis, and WISEWOMAN, as well as with the State Agriculture Agency, and coordinated school health programs in the State Education Agency (*see http://www.cdc.gov/nccdphp/dash/cshpdef.htm* for a description of a coordinated school health program), and other relevant State Agencies.

1.a. Recipient Activities for Capacity Building Programs

Note: As part of this program component, detailed descriptions of the program and additional information related to Capacity Building and Basic Implementation programs are located in ''Technical Assistance Manual for State Nutrition and Physical Activity Programs to Prevent Obesity and Other Chronic Diseases'' at *http://www.cdc.gov/nccdphp/dnpa/rfainformation.htm.* The referenced Web site information will assist you in addressing the details of the recipient activities when completing your application.

(1) Develop a Coordinated Nutrition and Physical Activity Program Infrastructure. Provide indicators of sound program infrastructure including program staff placed high in the organization to coordinate the program with other related programs, high level administrative commitment to sustain the program, access to resources such as physical space, funding, and training, access to scientific resources such as subject matter specialists and surveillance resources, and broad partnerships to institutionalize nutrition and physical activity. Examples of coordination include shared positions; joint planning, and combined strategy development and implementation. Organizational location of the program is recommended to be in the agency's chronic disease or health promotion section so that this program is aligned with chronic disease programs, such as cardiovascular health and diabetes, to allow for maximum collaboration. (*See* referenced Web site above).

(a) Staffing. Identify, hire, or reassign, and supervise at least three dedicated full-time staff with appropriate competencies to plan and implement the program (major program areas: Obesity prevention and control including caloric intake and expenditure, improved nutrition including increased breastfeeding and increased consumption of fruits and vegetables, increased physical activity, and reduced television time). Staff includes a full-time high-level program coordinator to coordinate the crosscutting nutrition and physical activity functions for health department programs and other partners, a full-time physical activity coordinator, and a full-time nutrition coordinator. Staffing patterns are encouraged to include program skills and expertise necessary to carry out the program. Part of staff capacity building must be in 5 A Day fruit and vegetable promotion efforts.

(b) Training. Participation in training, conferences, and frequent communication with national and State collaborators including other funded States.

(2) Collaborate and coordinate with State and local government and private partners, including members of the population throughout the planning process. (*See* referenced Web site above).

(a) Develop new linkages and maintain collaborations with State and local partners to coordinate nutrition and physical activity efforts, especially State Health Agency programs in cardiovascular health, cancer, diabetes, oral health, maternal and child health (including breastfeeding), arthritis, and WISEWOMAN, as well as the State Agriculture Agency, coordinated school health in the State Education Agency, and other relevant State Agencies. State programs should serve as a training and technical assistance resource for local health departments and others to conduct nutrition, physical activity, and obesity prevention interventions.

(b) Collaborate with Prevention Research Centers, academic partners, and other relevant organizations in the State.

(3) Conduct a planning process that leads to a comprehensive nutrition and physical activity plan to prevent and control obesity and other chronic diseases, and start to implement the plan. (*See* referenced Web site above.)

(a) Describe the obesity epidemic and other chronic diseases in the State related to poor nutrition and physical inactivity.

(b) Describe the nutrition and physical activity risk factors associated with obesity and other chronic diseases.

(c) Describe the population subgroups affected by obesity that will be targeted for interventions.

(d) Conduct inventories of strategies and programs currently used in the State to prevent or control obesity and other chronic diseases in one or more settings, such as worksite, faith-based organizations, health care services, or communities.

(e) Establish priorities with and for the subgroups; identify the behaviors and influences of the population subgroups which are priorities for intervention.

(f) Use the social-ecological theoretical model to guide State planning to address obesity and other chronic diseases in these populations; select and implement interventions from the list of proven strategies at *http://www.cdc.gov/nccdphp/dnpa/rfainformation.htm* so that multiple levels of influence in the social-ecological model are addressed. Consider using a social marketing approach in the intervention.

(g) With key stakeholders, write the comprehensive State plan for nutrition and physical activity for the State, not just for the State Department of Public Health. One reference document to consider when developing the plan is the ''Guidelines for Comprehensive Programs to Promote Healthy Eating and Physical Activity'' at *http://www.astphnd.org.* Documents guiding coordinated school health programs are at *http://www.cdc.gov/nccdphp/dash/.*

Design the plan to address nutrition and physical activity needs of the population including the pediatric population. The State plan should address at a minimum the following major program areas: Obesity prevention and control including caloric intake and expenditure, improved nutrition including increased breastfeeding and increased consumption of fruits and vegetables, increased physical activity, and reduced television time.

Include descriptions of how the State Health Department will work with the State Education Agency to address nutrition and physical activity needs of the population through school programs.

(h) Begin to implement components of the comprehensive State plan for

nutrition and physical activity by year two.

(4) Identify and assess data sources to define and monitor the burden of obesity. Strengthen capacity to assess the burden of obesity and the impact of the program to change overweight and obesity related behaviors, particularly nutrition and physical activity. Data systems should monitor trends, disseminate data/information, and support evaluation efforts. Monitor at minimum, body mass index (BMI), BMI-for-age, and dietary and physical activity behaviors. Data sources may include established surveillance systems (*e.g.*, the Behavioral Risk Factor Surveillance System [BRFSS], Pediatric Nutrition Surveillance System, Pregnancy Nutrition Surveillance System, and Youth Risk Behavior Surveillance System) or alternative sources. Include a review process of considering potential changes needed in current surveillance systems and designate who is responsible for implementing and maintaining the surveillance system. (*See* referenced Web site above.)

CDC will work with States to develop standard measures/indicators, and States will need to adopt these standardized measures. States are encouraged to retain flexible systems that can be modified as needed.

(5) Implement and evaluate an intervention to prevent obesity and other chronic diseases. (Complete between years two to five.)

Address one or more of the major program areas from the State plan in the intervention: Obesity prevention and control including caloric intake and expenditure, improved nutrition including increased breastfeeding and increased fruit and vegetable consumption, increased physical activity, and reduced television time. Provide a balance between nutrition and physical activity related interventions. Consider using a social marketing approach in the intervention. Specify clear, measurable process and impact objectives, and outcome objectives where feasible. Programs are encouraged to approach change at the State, community (towns, cities, counties, or regions), organizational (*e.g.*, worksites), and group level (*e.g.*, families). (*See* referenced Web site above.)

(6) Evaluate progress and impact of the State plan and intervention projects.

Develop an evaluation plan that includes baseline data and intermediate outcomes for the State plan's objectives. CDC has developed a plan for evaluating the State Nutrition and Physical Activity Programs to Prevent Obesity and Other Chronic Diseases based on a logic model framework. State evaluation plans should include issues addressed in the national evaluation plan as well as specific State program components.

1.b. Recipient Activities for Basic Implementation Programs. Basic Implementation programs will expand their efforts to fully implement the State plan by enhancing surveillance activities, implementing Statewide interventions, funding communities to implement interventions, rigorously evaluating a new or existing intervention, and enhancing partnership efforts particularly with coordinated school health programs in the State Education Agency and with secondary prevention partners. In addition to providing evidence of and enhancing the Recipient Activities for Capacity Building Programs, Activities 1–6, Basic Implementation programs will address the following activities.

(1) Expand the existing coordinated nutrition and physical activity program infrastructure. (Year One) Expand staffing beyond the capacity building program to fully implement the State plan. Support and expand the program infrastructure at the local/regional level throughout the State.

(2) Implement the State comprehensive plan for nutrition and physical activity and review and update the plan periodically. Develop and provide mini-grants and other assistance to support communities to adopt effective interventions. (Years One-Five) Assure that there is a continuing focus on strategic planning to reach objectives agreed upon within the State and to respond to new challenges and events. Review the written State plan annually. Adopt and diffuse effective interventions statewide or in communities and populations based on the State plan. Select and implement interventions from proven strategies so that multiple levels of influence in the social-ecological model are addressed, as guided by the State plan. Interventions can target the full State or local populations. Implement the ''Community Guide to Preventive Services'' physical activity recommended interventions in more depth or in more communities. Build community capacity to carry out and sustain an effective nutrition program. Provide intervention mini-grants to communities. Basic implementation programs located in States with CDC-funded coordinated school health programs must include a school-based intervention, working closely with the State Education Agency.

(3) Expand partnerships with State Health Department units, the State Education Agency, other State agencies, local communities, and private partners to maximize impacts of the basic implementation program. (Years One-Five)

Leverage resources for nutrition and physical activity working with the health department director, other health department units, the State Education Agency, other State agencies that share mutual goals, and other partners including local health partners and community groups. Identify environmental and policy issues; promote optimal standards and practices for nutrition and physical activity programs; and increase capacity through shared resources and expertise.

(4) Develop a new or apply an existing intervention and evaluate its effectiveness to prevent or control obesity and other chronic diseases every five years. Provide a balance between nutrition and physical activity interventions. Basic implementation programs should design the intervention project to detect realistic changes in post-intervention outcome measures when compared with pre-intervention measures. Sample sizes should provide adequate power to detect these changes. Specify clear, measurable evaluation objectives using process, impact, and outcome objectives. Intervention protocol development, project evaluation, and the preparation of publications and presentation of findings should be done in collaboration with community partners, Prevention Research Centers, university affiliates, relevant experts, and CDC, as appropriate.

(5) Collaborate with partners on secondary prevention strategies. (Years One-Five).

Describe activities supporting secondary prevention related to obesity. Integrate secondary prevention strategies and activities into the State plan, partnerships, policy and environmental changes, and training for health professionals to ensure that recognized national guidelines are followed. (*See http://www.cdc.gov/nccdphp/dnpa/rfainformation.htm* for additional information regarding this activity.)

(6) Develop resources and training materials to help other State and local projects adopt successful programs. (Years Four-Five).

Develop one or more training reports on at least one component of a program that works and train staff from other State or local programs. Assist in the dissemination and training of other State and local partners regarding the report findings. (*See http://www.cdc.gov/nccdphp/dnpa/*

rfainformation.htm for additional information regarding this activity.)

(7) Identify, assess, or develop data sources to further define and monitor the burden of obesity. See previous description of this activity under Capacity Building Recipient Activity 4.

(8) Evaluate progress and impact of the State plan and intervention projects. See previous description of this activity under Capacity Building Recipient Activity 6.

2. CDC Activities. a. Convene workshop and/or teleconferences of recipient programs for information sharing and problem-solving.

b. Provide ongoing guidance, consultation, and technical assistance to plan, implement, and evaluate all aspects of nutrition and physical activity program activities. Activities include coordinating national surveillance activities, monitoring data quality of national surveillance systems, assisting with analyses and interpretation of findings from qualitative and quantitative research; assisting in the social marketing process, guiding program evaluation, and sharing community, environmental and policy strategies to promote physical activity and healthy eating. Disseminate to recipients relevant state-of-the-art research findings and public health recommendations related to obesity and other chronic disease prevention and control through nutrition and physical activity interventions.

c. On a consultant basis, assist in the development and review of the intervention protocols and program evaluation methods.

d. Coordinate national level partnerships with relevant organizations and agencies involved in the promotion of physical activity and nutrition for the prevention and control of obesity and other chronic diseases.

Note: *Special Guidelines for Technical Assistance Telephone Conference Call.* Technical assistance will be available for potential applicants on one conference call. Potential applicants are requested to call in using only one telephone line. The call will be on February 3, 2003 from 2 p.m. to 3:30 p.m. EST. This conference can be accessed by calling 1–800–713–1971 [Federal call (404) 639–4100] and entering access code 996903.

The purpose of the telephone conference call is to help potential applicants:

—Understand the scope and intent of the Program Announcement for State Nutrition and Physical Activity Programs to Prevent Obesity and Other Chronic Diseases;

—Understand the role of nutrition and physical activity population-based approaches, such as policy-level change and environmental support, in preventing and reducing obesity and other chronic diseases;

—Be familiar with the CDC funding policies and application and review procedures.

F.2. Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. The application will be evaluated based on the evaluation criteria listed, so it is important to follow them when writing the program plan. The narrative for this component, not including budget justification, should be no more than 30 double-spaced pages for Capacity Building program applications or 40 double-spaced pages for Basic Implementation program applications, printed on one side, with one-inch margins and 12-point font. Applicants may also submit appendices that include State nutrition and physical activity plan, resumes, job descriptions, organizational chart, facilities, and other supporting documentation not to exceed 100 total pages. Letters of support should include the specific roles and responsibilities of the collaborator/partner to the State plan or intervention. All materials must be suitable for photocopying (*i.e.*, no audiovisual materials, posters, tapes, *etc.*).

1. Background and Recent History. Provide information on the background and recent history of your State health agency's capacity for the prevention and control of obesity and other chronic diseases through nutrition and physical activity. Describe how the State has built nutrition and physical activity capacity with CDC funds or other funding and complete the following table describing the current nutrition and physical staff, including their education. Describe the kinds of staffing contract services/options if used to augment agency staffing.

Program	Dollar level and source	FTE for nutrition dedicated to the program, include credentials	FTE for physical activity dedicated to the program, include credentials	Type of staffing contract services/ options used for nutrition or physical activity	Number of nutrition and physical activity graduate students
Nutrition/Physical Activity/Obesity (CDC funded)					
Nutrition/Physical Activity/Obesity (non-CDC funded, not including WIC), please specify					
Other:					
Other:					

Describe how the State has fulfilled the capacity building recipient activities to date, including developing a comprehensive State nutrition and physical activity plan to prevent obesity and other chronic diseases, descriptions of the development, implementation, and evaluation of nutrition and physical activity interventions relevant to obesity and other chronic diseases, prevention activities, and what programs and partners were involved. If applying as a basic implementation program, include an appendix responding to the evaluation questions in Attachment 10 located at *http://www.cdc.gov/nccdphp/dnpa/rfainformation.htm*.

2. Management Plan. a. Describe the management structure for the nutrition and physical activity program to prevent obesity and other chronic diseases. Describe plans with dates for hiring key staff. Include brief resumes of designated staff, the percentage of time they allocate to other health department programs, and job descriptions of existing and proposed staff.

b. Identify organizational placement of the program. Submit an organizational chart identifying

relationships between programs such as cardiovascular disease, diabetes, cancer, health education and promotion. Identify clear and direct lines of authority, supervisory and fiscal controls, and the extent which the existing and proposed staff and organizational structure and systems demonstrate sufficient capacity and capability to efficiently and effectively conduct the proposed activities.

c. Identify staffing and contracting barriers for the State health agency in the last year. Describe how work plans addressing nutrition, physical activity or obesity changed or were delayed because of the barriers. Also, identify strategies to carry out the proposed work plan considering current barriers. In particular, describe how the program will change if vacancies or hiring freezes occur.

3. Program Past Performance. Provide documentation to support your previous accomplishments that addressed the prevention and control of obesity and other chronic diseases through nutrition and physical activity. Include the following:

a. Evidence of State or community nutrition and physical activity policies, environmental supports, and/or legislative actions that are planned, initiated or modified for the prevention or control of obesity and other chronic diseases.

b. Evidence that communities have implemented a nutrition and physical activity plan for the prevention and control of obesity and other chronic diseases.

c. Evidence that an intervention for nutrition and physical activity was implemented and evaluated. If applying for Basic Implementation funds, submit the State nutrition and physical activity plan for the prevention and control of obesity and other chronic diseases as well as any intervention protocols and outcomes in the appendix. Capacity Building applicants submit if available.

4. Burden (please limit to no more than three pages). Provide information such as estimated prevalence of obesity and overweight and other chronic disease, its geographic and demographic distribution within the State using existing epidemiological data. Cite the source for and time period covered by these data. Describe high-risk populations, at a minimum by racial/ethnic, gender, age, and socioeconomic factors. If available, describe profiles of potential or already selected populations regarding their knowledge, attitudes, beliefs, health practices, and consumer patterns and habits relative to nutrition and physical activity aspects of obesity and other chronic diseases.

5. Program Work Plan—Provide a work plan that includes the following information:

a. Key Goal(s) and Objectives. Five-year project period impact objectives and one-year budget period process objectives that are specific, measurable, achievable, relevant, and time-framed to help achieve the goal(s) of the program as outlined in the ''Recipient Activities'' of this program component. If applying as a Basic Implementation program, attach the State's program logic model and evaluation plan. Capacity Building applicants submit if available.

b. Program Work Plan Methods. Provide a detailed description of the State's plan for conducting all program activities as outlined in the ''Recipient Activities'' of this program announcement, including methods for achieving each of the proposed objectives, time-lines for all activities, responsible parties, and methods for monitoring progress. Describe the mechanism to regularly review, evaluate, and update the State plan to meet evolving needs.

Chronic disease prevention programs, by their nature, must be integrated and well coordinated due to common risk factors. Resources are scarce; it is essential that efforts not be duplicated. Explain how the State will avoid duplication (but enhance coordination and integration) with other CDC-funded programs that address nutrition and physical activity. Basic Implementation funded nutrition, physical activity, and obesity programs will be the primary location for the leadership and delivery of population-based health promotion rather than those responsibilities falling to CVD, Diabetes or other chronic disease specific programs. If a comprehensive State nutrition and physical activity plan already exists, describe how the process used to develop the plan included and integrated the activities of other chronic disease programs. Include the plan in the appendix.

6. Budget and Justification. Provide a detailed budget and line-item justification that is consistent with the stated objectives, purpose, and planned activities of the project. Distinguish budget lines that are related to planning activities versus those that are related to data collection and intervention activities. Applicants are asked to include budget items for travel for two trips, one trip to Atlanta, Georgia for three staff to attend a three-day training and technical assistance workshop and another trip for three staff to the annual national conference on chronic disease prevention and control. If in-kind contributions are being provided by the applicant, these should be documented.

G.2. Evaluation Criteria (100 Points)

Each set of the evaluation criteria is scored using a 100-point system. Evaluation criteria 1 through 5 are applicable for both programs. Specific Program Work Plan criteria are provided for each funding level. Applications will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Program Work Plan (Total 50 points). The extent to which the applicant addresses the items in Recipient Activities in E.2. and the Application Content in F.2. item 5.

Point distribution for Capacity Building programs goals, objectives, and work plan methods by recipient activities:

a. Develop a coordinated nutrition and physical activity program infrastructure. (10 points).

b. Conduct a planning process that leads to a comprehensive nutrition and physical activity plan to prevent and control obesity and other chronic diseases and start to implement the plan. (10 points).

c. Evaluate progress and impact of the State plan and intervention projects. (10 points).

d. Implement and evaluate an intervention to prevent obesity and other chronic diseases. (10 points).

e. Collaborate and coordinate with State and local government and private partners, including members of the population throughout the planning process. (5 points).

f. Identify and assess data sources to define and monitor the burden of obesity. (5 points).

2. Background and Recent History (15 points). The extent to which the applicant addresses the items in Recipient Activities in E.2. and Application Content in F.2. item 1.

3. Management Plan (15 points). The extent to which the applicant addresses the items in Recipient Activities in E.2. and the Application Content in F.2. item 2.

4. Program Past Performance (15 points). The extent to which the applicant addresses the items in Recipient Activities in E.2. and the Application Content in F.2. item 3.

5. Burden (5 points). The extent to which the applicant addresses the items in Recipient Activities in E.2. and the Application Content in F.2. item 4.

6. Point distribution for Basic Implementation programs goals, objectives, and work plan methods by recipient activities:

a. Develop a new or apply an existing intervention and evaluate it to prevent

obesity and other chronic diseases. (10 points).

b. Implement the State comprehensive plan for nutrition and physical activity and review and update the plan periodically. Develop mini-grants and other mechanisms to support communities to adopt effective interventions. (10 points).

c. Evaluate progress and impact of the State plan and intervention projects. (10 points).

d. Identify, assess, or develop data sources to further define and monitor the burden of obesity. (6 points).

e. Expand the existing coordinated nutrition and physical activity program infrastructure. (5 points).

f. Expand partnerships with State Health Department units, the State Education Agency, other State agencies, local communities, and private partners to maximize impacts of the comprehensive program (3 points).

g. Collaborate with partners on secondary prevention strategies. (3 points).

h. Develop resources and training materials to help other State and local projects to adopt successful programs. (3 points).

6. Budget and Justification (Not weighted). The extent to which the line item budget justification is reasonable and consistent with the purpose and program goal(s) and objectives of the cooperative agreement. (Both programs).

7. Human Subjects (Not weighted). Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects? (Both programs).

The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in any proposed research. This includes:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

b. The proposed justification when representation is limited or absent.

c. A statement as to whether the design of the study is adequate to measure differences when warranted.

d. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

Program Performance Measures

See Appendix C for the framework that will be used for measuring performance of the State Programs. Capacity Building Performance Measures for transitioning to basic implementation programs should include evidence that the applicant has significant capacity as specified in the Capacity Building Program Recipient Activities 1–6 and the program evaluation plan (*See* Attachment 10 located at *http://www.cdc.gov/nccdphp/dnpa/rfainformation.htm*) covering the following measurement areas:

1. Evidence of States conducting strategic planning activities to develop a comprehensive State nutrition and physical activity plan to prevent and control obesity and other chronic diseases.

2. Evidence that a quality comprehensive State nutrition and physical activity plan to prevent and control obesity and other chronic diseases promotes coordination of activities across all relevant State and community programs in which relevant partners are identified in substantive roles.

3. Evidence of at least one community that implemented a nutrition and physical activity plan for the prevention and control of obesity and other chronic diseases.

4. Evidence of outcomes/impacts of at least one intervention evaluating nutrition and physical activity strategies to prevent or control obesity and other chronic diseases.

5. Evidence of State or community nutrition and physical activity policies, environmental supports, and/or legislative actions that were initiated, modified, or planned for the prevention or control of obesity and other chronic diseases.

Five-Year Performance Measures for State Nutrition and Physical Activity Programs include:

1. Evidence that communities have implemented a nutrition and physical activity plan for the prevention and control of obesity and other chronic diseases.

2. Evidence of outcomes/impacts of interventions evaluating nutrition and physical activity strategies to prevent or control obesity and other chronic diseases.

3. Evidence of State or community nutrition and physical activity policies, environmental supports, and/or legislative actions that were initiated, modified, or planned for the prevention or control of obesity and other chronic diseases.

4. Evidence of increased physical activity and better dietary behaviors in communities reached through interventions.

5. Evidence that the levels of obesity decrease or the rate of growth of obesity is reduced in communities reached through interventions.

Component 3—Well-Integrated Screening and Evaluation for Women Across the Nation (WISEWOMAN)

D.3. Availability of Funds

Approximately $9,200,000 is available to fund approximately 12 awards for grantees currently funded under program announcements 99135, 00115, and 01098. These grantees are only eligible for the second funding level (See Appendix A). To determine eligibility for first or second funding level see Appendices A and B which is found at the bottom of this document and at the CDC Web site address at *http://www.cdc.gov/od/pgo/funding/grantmain.htm*. Scroll down the Web page to ''Chronic Disease Prevention/Health Promotion Heading.'' Click on Program Announcement Number 03022. The attachments will be located at the bottom of the program announcement. The project period is five years. The average award for Standard Demonstration Projects will be approximately $500,000. Projects that screen substantially more women than 2,500 per year and exceed the performance expectations may qualify for higher awards. Information on performance expectations are found in Appendix B which is found at the bottom of this document and at the CDC Web site address *http://www.cdc.gov/od/pgo/funding/grantmain.htm*. Scroll down the Web page to ''Chronic Disease Prevention/Health Promotion Heading.'' Click on Program Announcement Number 03022. The attachments will be located at the bottom of the program announcement. The average award for Enhanced Projects will be approximately $1,000,000.

In addition, approximately $750,000 is available in FY 2003 to fund up to three WISEWOMAN Projects at the first funding level. Requests for these funds will be competitive. The project period is five years. In the first year, Standard Demonstration Project funding will range from $50,000 to $250,000. If all performance measures (*see* Appendix B) are completed at the first funding level, applicants may apply for the second funding level through their continuation applications.

Use of Funds

60/40 Requirements: Not less than 60 percent of cooperative agreement funds must be spent for screening, tracking, follow-up, lifestyle intervention, health education, and the provision of appropriate individually provided support services. Cooperative agreement funds supporting public education and outreach, professional education, quality assurance and improvement,

surveillance and program evaluation, partnerships, and management may not exceed 40 percent of the approved budget [WISEWOMAN follows the same legislative requirements as the NBCCEDP, Section 1503(a) (1) and (4) of the PHS Act, as amended; *see http://www.cdc.gov/wisewoman/legislationhighlight.htm* for more information on legislation]. Further information about the 60/40 distribution is provided in the WISEWOMAN Guidance Document: Interpretation of Legislative Language and Existing Documents. This can be accessed through the Internet at *http://www.cdc.gov/wisewoman* or by contacting the program technical assistant contact listed in Section ''J. Where to Obtain Additional Information.''

a. Inpatient Hospital Services: Cooperative agreement funds must not be spent to provide inpatient hospital or treatment services [Section 1504g of the PHS Act, as amended].

b. Administrative Expense: Not more than 10 percent of the total funds awarded may be spent annually for administrative expenses. These administrative expenses are in lieu of and replace indirect costs [Section 1504(f) of the PHS Act, as amended]. Administrative expenses comprise a portion of the 40 percent component of the budget.

c. Limit of Use of Funds for Case Management: Use of Federal funds for case management of women without alert values is strongly discouraged. This policy and the definition of alert values are found on the WISEWOMAN Web site Guidance Document at *http://www.cdc.gov/wisewoman*.

Recipient Financial Participation—Matching Requirement

a. Recipient financial participation is required for this program in accordance with the authorizing legislation. Section 1502(a) and (b) (1), (2), and (3) or the PHS Act, as amended, requires matching funds from non sources in an amount not less than one dollar for every three dollars of Federal funds awarded under this program. However, Title 48 of the U.S. Code 1469a (d) requires DHHS to waive matching fund requirements for Guam, U.S. Virgin Islands, American Samoa and the Commonwealth of the Northern Mariana Islands up to $200,000.

b. Matching funds may be cash, in-kind, or donated services, or equipment. Contributions may be made directly or through donations from public or private entities. Public Law 93–638 authorizes tribal organizations contracting under the authority of Title 1 to use funds received under the Indian Self-Determination Act as matching funds.

c. All costs used to satisfy the matching requirements must be documented by the applicant and will be subject to audit. Specific rules and regulations governing the matching fund requirement are included in the PHS Grants Policy Statement, Section 6. Matching funds are not subject to the 60/40 requirements described above under ''Use of Funds.'' For further information about the matching fund requirement, see the WISEWOMAN Guidance Document.

Direct Assistance

No direct assistance funds will be awarded in lieu of financial assistance to successful WISEWOMAN component recipients.

E.3. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under ''1. Recipient Activities,'' and CDC will be responsible for the activities listed under ''2. CDC Activities.''

Standard Project

Standard Demonstration Project (available for new applicants in FY 2003 and FY 2004, not available for new applicants in FY 2005 or later).

The major goal of a Standard Demonstration Project is to demonstrate the effectiveness of operational approaches to conducting the following activities for women aged 40–64 who participated in the NBCCEDP: Outreach, screenings for blood pressure, cholesterol, smoking, and other conditions (when appropriate); referral; lifestyle intervention (to include promotion of heart-healthy diet, increased physical activity, and tobacco cessation); tracking and follow-up; evaluation; professional and public education; and community engagement.

Enhanced Project

One major goal of an Enhanced Project is to use scientifically rigorous methods to test the effectiveness and cost-effectiveness of a behavioral or lifestyle intervention that is grounded in the social and cultural context of the target population and aimed at preventing cardiovascular disease. The other major goal is to translate and transfer successful interventions and program strategies to other programs that serve financially disadvantaged women. Some important resources for understanding the scope of these translation and transfer activities can be found at *http://www.replication.org/infores.html* and *http://www.replication.org/pdf/tool.pdf.*

1. Recipient Activities for Standard Demonstration Projects and Enhanced Projects: a. Develop a preventive health services program or a preventive health services research study/studies to include cardiovascular disease risk factor screening with mandatory cholesterol and blood pressure measurements built upon an extremely strong State, Territorial, or Tribal Breast and Cervical Cancer Early Detection Program with evidence provided of the strength of the BCCEDP Program.

b. Staff with at least two professional staff members to work full-time on WISEWOMAN (one of whom should be a full-time program coordinator and the other should have experience in nutrition, physical activity, or health education), or a plan for hiring such staff members. If staff must be hired, describe the staff that will manage the program until the hiring is completed. Describe the WISEWOMAN evaluation team and provide information on their experience and academic degrees.

c. Work with health care systems that can effectively deliver WISEWOMAN services and that target the population in need of these services. This can best be accomplished by working with a health care system in which the State, Territory, or Tribal BCCEDP has previously been effective and that has successfully engaged the community to provide additional services/support to the population in need.

d. Establish a cardiovascular disease prevention program as the primary focus, with culturally appropriate interventions addressing multiple risk factors that must include physical inactivity, poor nutrition (high intake of saturated fat and low intake of fruit and vegetables), and tobacco use. Other cardiovascular risk factors may be addressed such as overweight or obesity, and pre-diabetes or undiagnosed diabetes.

Recipients may develop other preventive services to be delivered, such as intervention services aimed at prevention or relief of the following: Osteoporosis, arthritis, influenza or other diseases for which vaccines are readily available, or other significant conditions/diseases which affect large numbers of older women.

e. States, Territories, and Tribal Agencies should implement screening, referral, and follow-up according to the recommendations of the National Cholesterol Education Program (NCEP) of the National Heart, Lung, and Blood Institute for cholesterol screening using the Adult Treatment Panel III (ATP–III)

and the recommendations set forth for hypertension according to the 6th Joint National Report on the Detection, Evaluation and Treatment of High Blood Pressure published by the National Institutes of Health, National Heart, Lung, and Blood Institute. The guidelines can be obtained electronically at *http://www.nhlbi.nih.gov/guidelines/index.htm.* National guidelines for addressing other risk factors can be found at *http://www.cdc.gov/wisewoman.* Laboratories must be accredited under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) and meet all applicable Federal and State quality assurance standards in the provision of any test performed. However, if a new, improved, or superior screening procedure becomes widely available and is recommended for use, this superior procedures will be utilized in the program. [Section 1503(b) of the PHS Act, as amended.]

f. Recipients should design culturally appropriate lifestyle interventions aimed at lowering blood pressure or cholesterol, improving physical activity or nutrition, or achieving smoking cessation in a similar target population. A New Leaf Choices for Healthy Living is an example of an intervention that has been effective in improving nutrition (*see http://www.hpdp.unc.edu/wisewoman/newleaf.htm*).

Alternatively, the intervention can be newly designed if it incorporates sound theoretical principles of behavioral change such as use of the socio-ecologic model to intervene at multiple levels, individual tailoring, self-efficacy, self-monitoring and reinforcement, readiness for change, small achievable steps, social support, collaborative goal setting, and strategies to overcome barriers (see monograph entitled *Integrating Cardiovascular Disease Prevention into Existing Health Services: The Experience of the North Carolina WISEWOMAN Program* at *http://www.hpdp.unc.edu/wisewoman/manual.htm.* If applying as a Standard Best Practices project (available in FY 2005 and later), interventions should be designed following WISEWOMAN recommended best practices (available in FY 2005).

g. Recipients should propose methods aimed at sustaining behavioral change. Maintaining behavioral change should involve strategies to provide the participant with ongoing contact such as with health facility staff or community health workers (either in person or by mail) and to educate regarding relapse prevention. The use of computer-tailored education can be especially useful (to view recommendations detailed in the monograph entitled *Integrating Cardiovascular Disease Prevention into Existing Health Services: The Experience on the North Carolina WISEWOMAN Program* see *http://www.hpdp.unc.edu/wisewoman/manual.htm.*

Environmental supports aimed at sustaining behavioral change such as increased walking, healthier food choices, and smoking cessation should also be considered. These might include activities such as improving the safety of neighborhoods, advocating for walking groups at shopping malls, improving the quality of foods in local grocery stores and changing community norms around tobacco. Although WISEWOMAN applicants may not be able to completely fund these environmental strategies due to restrictions on the use of funds (*see* 60/40 Requirement in under ''Use of Funds''), they may be able to establish strong partnerships with other CDC programs in their health department or agency that use community environmental and/or policy approaches (*e.g.*, Nutrition/Physical Activity/Obesity, Tobacco Control, Diabetes, and Cardiovascular Health).

h. Recipients should propose methods aimed at sustaining the program in future years. Methods include using the principles of community engagement (for more information, see CDC's monograph entitled ''Principles of Community Engagement'' at *http://www.cdc.gov/phppo/pce/index.htm.* Emphasis should be placed on developing traditional and non-traditional partnerships in the community through partnering with other CDC funded programs.

i. Plan or conduct evaluation strategies to include reporting of suggested minimum data elements and cost information (see WISEWOMAN Guidance Document at *http://www.cdc.gov/wisewoman* for a list of the suggested minimum data elements). Other evaluations are strongly encouraged and might include measures of program feasibility and acceptability, mapping neighborhood assets to determine resources before and after program implementation, increases in partnerships as a result of the program, improvements in medical care, the usefulness of community health workers in the program, increases in knowledge of providers, improvements in participant's self-efficacy, and so forth;

j. Formalize plans for Recipient Activities (a) to (i) through development of program protocols or conduct program operations according to previously developed and approved program protocols. Newly funded projects should conduct all program startup activities as detailed on page 18 of the monograph *Integrating Cardiovascular Disease Prevention into Existing Health Services: The Experience of the North Carolina WISEWOMAN Program* at *http://www.cdc.gov/phppo/pce/index.htm* and should be prepared to pilot test their methods.

k. Work collaboratively with other State, Territorial, or Tribal WISEWOMAN program staff and partners (such as CDC contractors) to develop methods that have the potential to be implemented in other WISEWOMAN programs.

2. CDC Activities: a. Convene workshops, trainings, and/or teleconferences of the funded projects for sharing of information and solving problems of mutual concern.

b. Provide ongoing consultation and technical assistance to plan, implement, and evaluate program activities.

c. Conduct site visits to assess program progress and mutually resolve problems, as needed, and/or coordinate reverse site visits to CDC in Atlanta, GA.

d. Assist in the development of a research study protocol for IRB review by all cooperating institutions participating in the research project. If CDC IRB review is necessary, the CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed. For more detailed information on the CDC IRB *see http://www.cdc.gov/od/ads/hsr2.htm.*

e. Collaborate with WISEWOMAN projects in the analysis of data and development of abstracts and publications that informs the program, public, scientific community, and Congress as to program progress and results.

f. Copy and distribute materials developed by State, Territorial, or Tribal WISEWOMAN projects for the purpose of aiding other WISEWOMAN projects and public health partners.

F.3. Content

Applications. The program announcement title and number must appear in the application. Use the information in the ''Program Requirements, Other Requirements, and Evaluation Criteria'' sections to develop the content. Your narrative should be no more than 30 double-spaced pages, printed on one side, with one-inch margins, and unreduced font.

WISEWOMAN Application Outline: Please provide the following information and, as appropriate, a preliminary but realistic time-phased

work plan that addresses all of the points below. Only existing WISEWOMAN projects are required to provide WISEWOMAN-specific information requested below. Applicants may apply for either the Standard Demonstration Project or the Enhanced Project, but not both.

1. Background and Need. Provide a brief description of the extent of the disease burden and the need among the priority populations and the background of the health care system to include:

a. The number of uninsured women living in the State/Territory/Tribal area by race/ethnicity by two age categories if possible, *i.e.* 40–49 years and 50–64 years.

b. The current health care system in which State, Territorial, or Tribal BCCEDP and WISEWOMAN sites operate (*e.g.* are the sites county health department clinics, community health centers, private providers, managed care organizations, etc.) and the appropriateness of the health care system for implementing effective interventions, adhering to program protocols, tracking difficult to reach women, and providing timely information on women who have high values of cholesterol and blood pressure.

c. Community involvement or engagement in the BCCEDP and/or WISEWOMAN project to include use of community health workers, use of community members, engagement in partnership activities with community agencies that serve financially disadvantaged women, use of referral systems to other community services, and so forth.

2. Infrastructure. Document the current State, Territorial, or Tribal BCCEDP and WISEWOMAN (if applicable) infrastructure including:

a. An organizational chart that shows the location of The WISEWOMAN Program in relationship to the agency's health promotion section, chronic disease section, minority, or women's health section, Breast and Cervical Cancer Early Detection Program, and to other programs that address chronic disease (*e.g.* cardiovascular health, tobacco, physical activity, nutrition, 5 A Day, diabetes, and obesity). Describe lines of communication between WISEWOMAN and the above-mentioned sections and programs.

b. The number of BCCEDP and WISEWOMAN sites in operation as of the January preceding the date of this application.

c. The total number of political subdivisions (*e.g.*, counties) and the number of these subdivisions that had a BCCEDP site and the number that had a WISEWOMAN site as of January preceding the date of this application.

d. During the most recent program year include:

(1) The number of women served by BCCEDP and The WISEWOMAN Programs in the State, Territory, or Tribal area (provide data for each of the past 5 years, if available).

(2) The racial/ethnic characteristics of the population served (include educational Characteristics, if available).

(3) The percentage of women with a positive mammogram or pap test who did not go on for further diagnostics and reasons why women did not go on;

(4) The percentage of women with a WISEWOMAN alert value who did not go on for further diagnostics and reasons why women did not go on.

(5) The average length of time between a positive mammogram or Pap test and the receipt of a diagnostic test.

(6) The average length of time between detection of a WISEWOMAN alert value and the receipt of diagnostic test (*see* WISEWOMAN Guidance Document at *http://www.cdc.gov/od/ads/hsr2.htm* for the definition for alert values).

3. Program Planning for Upcoming Year. Describe how the program will decide or is currently conducting the following:

a. Site selection, the approximate number of sites to receive WISEWOMAN services, the characteristics of the sites, the proportion of State or Territorial BCCEDP sites that will receive WISEWOMAN services, and estimated number of women who are expected to receive such services during the upcoming year.

b. Screening and intervention services and start-up activities (if applying for Standard Demonstration Project funding level; see checklist of start-up activities in the WISEWOMAN Guidance Document at *http://www.cdc.gov/wisewoman* to be provided along with a time line for determining and implementing start-up activities, screening and intervention services [allowable screening and diagnostic procedures for the demonstration programs include resting pulse, blood pressure, serum total cholesterol, HDL-cholesterol, LDL-cholesterol, height and weight measurements, automated blood chemistry (to assess fasting blood glucose, potassium, calcium, creatinine, uric acid, triglyceride, or micronutrient levels), urine analysis (including urine cotinine), and paper and pencil tests, interviews, or computerized methods that measure level of physical activity, dietary intake, smoking, osteoporosis risk status, immunization status, or other chronic disease risk factors or preventable health problems. The use of program funds for other tests will require substantial justification by the program. The schedule of fees/charges should not exceed the maximum allowable charges established by the Medicare Program for the same or similar laboratory tests. (Fees/charges for services covered by Medicare may vary by location, thus, States or Territories should determine the appropriate reimbursement rates for their areas.)

c. A pilot study to test proposed methods.

d. Inclusion of letters of support for WISEWOMAN from a substantial number of State/Territorial BCCEDP site directors and medical staff.

e. Methods for tracking women through the system and after they leave the system [(for the purpose of bringing them back for further screening and intervention)(Standard Projects should ensure that at least 60 percent of new women receive the complete intervention)], for flagging, tracking, and managing women who need immediate referral because of extremely high blood pressure (≥180 systolic blood pressure or 110 diastolic blood pressure), cholesterol (>400 mg/dL), or glucose levels (>375 mg/dL).

f. Program tracking to determine which women receive which interventions; routine reporting on the progress of the program (see suggested quarterly report format in WISEWOMAN Guidance Document at *http://www.cdc.gov/wisewoman* and reporting of minimum data elements. These minimum data elements will yield the performance measures that will determine whether a project qualifies for additional funding. The complete set of performance measures are detailed in Appendix B.

4. *Screening and Intervention.* Document the ability of the program to screen and intervene upon women enrolled in the WISEWOMAN program including implementation of WISEWOMAN screening activities, the rationale and guidelines for implementing WISEWOMAN intervention activities, methods for reaching women from the State or Territorial BCCEDP for the purpose of WISEWOMAN screening and intervention and the use of outreach and community health workers to address barriers to program involvement, barriers to behavioral change, and barriers to maintaining contact for future health screenings and interventions.

5. *Evaluation—(Standard Program):*

a. Describe the current evaluation team or propose a plan to establish the evaluation team using criteria such as prior work experience, professional training, and academic degrees.

b. Describe the current evaluation plan or propose an evaluation plan that includes clearly stated evaluation objectives with a time line for the collection of data throughout the project.

c. Describe the current database or propose a database that details data elements, methods for data management, the creation of unique identifiers, methods for identifying women who need immediate treatment, and other important data procedures.

6. *Evaluation—(Enhanced Program):* Submit an evaluation design to: (1) Examine the impact of chronic disease risk factor intervention(s) on lowering blood pressure, improving cholesterol levels (lowering total cholesterol levels and raising HDL cholesterol levels), and improving other risk factors such as poor nutrition and inadequate physical activity at six and twelve months after intervention and program strategies. The plan for effectiveness should include:

a. The extent to which a university or Prevention Research Center will be involved in the evaluation design.

b. The preliminary evaluation questions to be answered.

c. The type of evaluation design (*e.g.* randomized controlled design) and rationale for using this type of design.

d. Length of follow-up and measurement intervals.

e. Protocol used to ensure that the maximum number of women will return for each evaluation.

f. Statistical techniques that will be used to analyze the data with preliminary estimates of the sample size needed to achieve adequate statistical power. To obtain the statistical power to evaluate the intervention, the program should add cholesterol and blood pressure screenings (and other optional screenings, if desired) to a sufficiently large number of State or Territorial BCCEDP sites to provide adequate statistical power for evaluating program effectiveness. States or Territories may want to consider including a total of at least 20 sites. The study design for this type of evaluation might include women from a number of sites assigned to intervention (*i.e.*, the special intervention group) compared to women from a number of sites assigned to usual standard practice (*i.e.*, the usual care group or comparison group). Other study designs may be proposed including randomizing women to each of arm of the study. A method of collecting information for the purpose of program evaluation should be developed and implemented. Voluntary reporting of Minimum Data Elements is recommended as part of the program evaluation. The plan for translation and transferring successful strategies should include:

(1) The extent to which the evaluation team includes staff with expertise in translation and transfer activities;

(2) Clear objectives regarding translating strategies into products using lay language, compiling information in clear, user-friendly format, testing of the translation package for usability;

(3) Methods for providing technical assistance, orientation and training on implementing and ensuring fidelity with regard to implementing the translation package;

(4) Methods for evaluating and refining the translation package and plans for dissemination of the final package;

(5) A timeline with regard to translation and transfer activities. Some important resources for understanding the scope of these translation and transfer activities are found at *http://www.replication.org/infores.html* and *http://www.replication.org/pdf/tool.pdf.*

7. Collaborative Efforts. Provide a concise collaboration plan that addresses program methods and analyzing and publishing data with CDC and others. The following areas should be addressed:

a. Meeting and teleconferences attendance for the purpose of developing forms, tracking systems, measurements, policy, etc.

b. Analyzing data and co-authoring abstracts and publications; sharing information with CDC and its contractors (stripped of identifying information) on a twice-yearly basis.

c. Plans to collaborate with other health promotion experts in the health agency including nutritionists, physical activity experts, tobacco control experts, and others who promote a healthy lifestyle through better eating, weight management, physical activity, and smoking cessation.

d. For Enhanced projects, plans for developing a monograph and/or training on methods to help other projects adopt successful program practices (See example ''Integrating Cardiovascular Disease Prevention into Existing Health Services: The Experience of the North Carolina WISEWOMAN Program'' at *http://www.hpdp.unc.edu/wisewoman/manual.htm.*

8. Budget and Justification: Provide a detailed budget and line-item justification that is consistent with the stated objectives, purpose, and planned activities of the project. Applicants should note the following budget-related issues:

a. Budget for the following travel:

(1) Up to two persons to attend the Nutrition and Public Health Course that is sponsored by the University of North Carolina Prevention Research Center and the Centers for Disease Control and Prevention. This is a five-day course. For more information see *http://www.hpdp.unc.edu/nph.* Future topics and place to be determined. This is a mandatory training course that provides training with regard to WISEWOMAN Best Practices.

(2) Up to two persons to participate in the annual WISEWOMAN Project Directors Meeting that is held in conjunction with NCCDPHP Annual Chronic Disease Conference (four days) or other CDC Conferences. Details are provided at *http://www.cdc.gov/nccdphp/conference/index.htm.* This is a mandatory meeting for the purpose of sharing projects successes and challenges.

(3) One person to attend the Physical Activity and Public Health Course that is sponsored by the University of South Carolina Prevention Research Center and the Centers for Disease Control and Prevention. This is an eight-day Postgraduate Course on Research Directions and Strategies and a six-day Practitioner's Course on Community Interventions. *See http://prevention.sph.sc.edu/seapines/index.htm.* Or one person to participate in a non-CDC sponsored professional meeting directly relevant to the program. (A tobacco cessation training course is highly recommended.)

(4) Cost Data and Minimum Data Elements: Budget for collecting and reporting cost data and minimum data elements. (See WISEWOMAN Guidance Document at *http://www.cdc.gov/wisewoman* for list of minimum data elements.) Section 1505 [42 U.S.C. 300n–1] requires that applicants provide assurance that the grant funds be used in the most cost-effective manner.

G.3. Evaluation Criteria

Applications received from current grantees that are funded under program announcements 00115, 99135, and 01098 will be reviewed utilizing the Technical Review process. For applicants that apply competitively as Standard Demonstration Projects or Enhanced Projects, an independent objective review group appointed by CDC will evaluate each application individually using the following criteria:

1. Program Plan (35 points). The extent to which the applicant has addressed Recipient Activities 1.a

through 1.j and items 3.a through 3.g in the Application Content sections.

2. Screening and Intervention (Standard Projects: 25 points and Enhanced program: 15 points). The extent to which the applicant has addressed Recipient Activities 1.b through 1.f and items 4 in the Application Content sections.

3. Evaluation Plan—(Standard Program: 15 points). The extent to which the applicant has addressed Recipient Activities 1.h and items 5 in the Application Content sections.

Evaluation Plan—(Enhanced Program—25 points). The extent to which the applicant has addressed Recipient Activities 1.h and items 6 in the Application Content sections.

4. Background, Need, and Potential for Community Involvement (10 points). The extent to which the applicant has addressed Recipient Activities 1.a and items 1.a through 1.c in the Application Content sections.

5. Infrastructure (10 points). The extent to which the applicant has addressed Recipient Activities 1.b and 1.d and items 2.a through 2.c in the Application Content sections.

6. Collaborative Efforts (5 points). The extent to which the applicant has addressed Recipient Activities 1.a and items 7 in the Application Content sections.

7. Human Subjects (not scored). Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects? Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable. Does the application adequately address the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research? This includes:

1.1 The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

1.2 The proposed justification when representation is limited or absent.

1.3 A statement as to whether the design of the study is adequate to measure differences when warranted.

1.4 A statement as to whether the plans for recruitment and outreach for study participants includes the process recognition of mutual benefits.

Component 4:—State-Based Oral Disease Prevention Program D.4. Availability of Funds

Approximately $2,600,000 is available in FY 2003 to fund approximately 13 Part 1 Capacity Building Program awards. It is expected that the Capacity Building Program average award will be $200,000, ranging from $65,000 to $400,000. Funding estimates may vary and are subject to change.

No funding is available in FY 2003 for Part 2 Basic Implementation Program awards. Pending available funding resources, applications will be accepted in years two through five.

Use of Funds

Applicants may not use these funds to supplant oral health program funds from local, State, or Federal sources. Applicants must maintain current levels of support dedicated to oral health from other funding sources. Funding received under this program announcement cannot be used for the purchase of dental services, dental sealant equipment, or materials.

Recipient Financial Participation

Applicants requesting funding for community water fluoridation equipment will be required to provide matching funds. Matching funds are required from State and/or local sources in an amount of not less than one dollar for each four dollars of Federal funds awarded for community water fluoridation equipment under this program announcement.

Matching funds are required from State and/or local sources in an amount of not less than one dollar for each four dollars of Federal funds awarded for a Basic Implementation Program.

Matching funds may be in cash or its equivalent, including donated or in-kind appropriate equipment, supplies, and or services. Do not include funds from other Federal sources including the Preventive Health and Health Services Block Grant.

CDC funding covers some of the costs of oral health core capacity, infrastructure, and community-based prevention interventions, but it is not intended to fully support all aspects of the oral health program.

Direct Assistance

You may request Federal personnel as direct assistance in years two through five, in lieu of a portion of financial assistance.

To request new direct-assistance assignees, include:

a. Number of assignees requested.

b. Description of the position and proposed duties.

c. Ability or inability to hire locally with financial Assistance.

d. Justification for request.

e. Organizational chart and name of intended supervisor opportunities for training, education, and work.

f. Opportunities for training, education, and work experience for assignees.

g. Description of assignee's access to computer equipment for communication with CDC (*e.g.*, personal computer at home, personal computer at workstation, shared computer at workstation on site, shared computer at a central office).

E.4. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1.a and 1.b (Recipient Activities), and CDC will be responsible for the activities listed under 2. CDC Activities.

1.a. Part 1 Capacity Building Program Recipient Activities and Performance Measures:

(1) Develop oral health program leadership capacity. Develop a State oral health team. Leadership capacity should include: (a) full-time dental director (oral health professional with public health training); (b) .25 time epidemiologic support at a minimum; (c) demonstrated access to at least .50 time of a water fluoridation engineer/specialist or coordinator, and (d) demonstrated access to appropriate program support, .50 to one time dental sealant coordinator, .25 time capacity for health education, health communication, and .25 time support staff, through leveraging of dollars, shared dedicated resources and letters of support.

Performance will be measured by evidence of established leadership capacity. Evidence of leadership capacity can be shown by: The composition of an oral health program team consistent with (1) above.

(2) Describe the oral disease burden, health disparities, and unmet needs in the State. Describe the oral disease burden within the State and document unmet oral health needs of target populations and existing oral health assets (*e.g.*, professional dental/dental hygiene schools, prevention interventions undertaken within the State).

Performance will be measured by evidence that State oral disease burden has been accurately described. Evidence can be shown by: (a) a publicly available disease burden document describing oral disease burden and oral health disparities, issued in the past five years using the most recent data, preferably data no more than five years old; and (b) document includes oral health status with indicators consistent with the National Oral Health System (NOHSS), the Water Fluoridation Reporting

System (WFRS), and the ASTDD State Synopsis.

(3) Develop or update a comprehensive State Oral Health Plan. Develop or update a comprehensive State Oral Health Plan for oral health promotion, disease prevention, and control that includes specific objectives for future reductions in oral disease and related risk factors and objectives for the promotion of oral health. The plan should provide specific, measurable, and time-phased objectives to accomplish each goal related to the logic model (*see http://www.cdc.gov/OralHealth/index.htm* for additional information). In addition, develop a comprehensive State Oral Health Plan (suggest five-year plan) that is available to the public, periodically updated, and developed in collaboration with the assistance of stakeholders. The Plan should address the following oral health areas: (a) Oral health infrastructure including current resources, gaps in resources and recommendations for their elimination; (b) Healthy People 2010 objectives; (c) caries; (d) water fluoridation and school-based or school-linked sealant programs; (e) description of priority populations and burden of disease; (f) strategies to address oral health promotion across the lifespan; (g) strategies to identify best practices that can be replicated; (h) evaluation strategies and recommendations for monitoring the outcomes and impacts of plan implementation; (i) implementation strategies, leveraging of resources, partnerships, and plan maintenance including roles and responsibilities of State and local agencies; and (j) oral cancer, periodontal diseases, and infection control.

Performance will be measured by evidence that a comprehensive State Oral Health Plan has been completed. Evidence can be shown by development of a plan consistent with the process described and with elements (a) through (j) above.

(4) Establish and sustain a diverse Statewide oral health coalition. Establish a coalition to assist in the formulation of plans, guide project activities, and identify additional financial resources for this project. Coalition membership should be representative of stakeholder organizations within the State health department, within the State government and groups external to State government, for examples *see http://www.cdc.gov/OralHealth/index.htm.*

Performance will be measured by evidence of a sustained, diverse statewide oral health coalition. Evidence can be shown by: (a) Extent of progress towards coalition sustainability, such as written by-laws, goals and objectives, plans and procedures for operation, past accomplishments, clerical staff support, and evidence of leveraging of resources; (b) membership entities representing each, but not limited to, categories in the coalition framework at Web site; (c) clear responsibility; (d) coalition activity in infrastructure, community water fluoridation, and sealants. Coalition activities must address all of the following activities: Infrastructure development, community water fluoridation, school-based/school-linked dental sealant programs, unless the grantee can document how current activities in the State have already met or exceeded Health People 2010 objectives for these activities.

(5) Develop or enhance oral disease surveillance system. Develop key resources, data sources, and capabilities to promote the State's surveillance needs. *See http://www.cdc.gov/OralHealth/index.htm* for detailed outline of data sources to consider. Activities should include: (a) Establish plan for how data collection, analysis, and dissemination will support program activity, including a surveillance plan logic model consistent with the CDC Surveillance Logic model (*see http://www.cdc.gov/OralHealth/index.htm*); (b) conduct surveillance so that key oral health indicators have been collected in a valid and timely manner using standard approaches with attention to comparability across States and consistent with annual data submission to the ASTDD's State Synopsis and data submissions to NOHSS, and updated at least every five years; and (c) monitor water fluoridation on a monthly basis comparable and consistent with WFRS.

Performance will be measured by evidence of a developed or enhanced oral disease surveillance system. Evidence can be shown by: Documentation that key resources, data sources, capabilities and surveillance plan are in place to provide an adequate surveillance system via activities consistent with (a) through (c) above.

(6) Identify prevention opportunities for systemic, socio-political and/or policy change to improve oral health. Conduct a periodic assessment of policy and systems level strategies with potential to reduce oral diseases. The assessment should include identification of opportunities to make changes in policy and health systems to overcome barriers, capitalize on assets, increase capacity, and coordinate prevention interventions.

Performance will be measured by evidence of identification of socio-political and policy changes. Evidence can be shown by periodic assessments consistent with the activities above.

(7) Develop and coordinate partnerships to increase State-level and community capacity to address specific oral disease prevention interventions. Identify, consult with and involve appropriate partners to assess areas critical to the development of State-level and community-based oral health promotion and disease prevention programs, avoid duplication of efforts, ensure synergy of resources, and enhance the overall leadership within the State. Partnerships should augment the oral health coalition.

Performance will be measured by evidence of the development and coordination of partnerships. Evidence can be shown by: (a) Collaborative partnerships with Statewide and local entities (*e.g.*, Memorandum of Understanding (MOU) with other State agencies, joint dedication of resources); (b) broad range of partnerships inside and outside of the State Health Department, encouraging the focus on prevention interventions.

(8) Coordinate and implement limited community water fluoridation program management. Provide coordination and management of a fluoridation program, provide/develop fluoridation training materials for engineers and water plant operators, and evaluate community water fluoridation accomplishments and new and/or replacement water fluoridation equipment.

Performance will be measured by the development, implementation, and coordination of a water fluoridation program. Evidence can be shown by: (a) Extent the water fluoridation program incorporates and makes progress towards the 1995 Engineering and Administrative Recommendations for Water Fluoridation (EARWF), including: (1) Daily testing; (2) access to .50 fluoridation engineer; (3) targeted inspection activity; (4) basic fluoridation training; (b) monthly monitoring consistent with the Water Fluoridation Reporting System (WFRS); (c) percent of fluoridated water systems consistently maintaining optimal levels of fluoride as defined by State and consistent with EARWF; (d) document communities and populations receiving new or replacement fluoridation equipment.

(9) Evaluate, document, and share State program accomplishments, best practices, lessons learned, and use of evaluation results. Evaluation activities should: (a) Be consistent with the CDC oral health global logic model, work plan: (*see http://www.cdc.gov/OralHealth/index.htm*) the CDC Evaluation Framework for Evaluating

Public Health Programs (*http://www.cdc.gov/mmwr*), the CDC Guide to Evaluating Surveillance Systems (*http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5013al.htm*), and consider assessments of changes in oral health outcomes, as well as process evaluations consistent with the Association of State and Territorial Dental Directors' Best Practices evaluation criteria (*see http://www.cdc.gov/OralHealth/index.htm*); (b) document outcome evaluation measures including but not limited to percentage of population receiving fluoridated water and dental sealants; (c) include evaluation efforts consistent with indicators developed for ''supported States evaluation plan'' (*see http://www.cdc.gov/OralHealth/index.htm*); (d) be used to improve recipient activities above; and (e) be institutionalized as an on-going activity. Sharing of State program accomplishments, best practices, and lessons learned may include participation in forums for exchanging ideas and identification of methods and avenue for dissemination such as the CDC Chronic Disease Conference, and the National Oral Health Conference as well as local and State supported forums (*e.g.*, State Summits, State dental and dental hygiene association meetings).

Performance will be measured by evidence that evaluation has been completed, State evaluation capacity and activities have become institutionalized; State program accomplishments have been collected, evaluated, and shared with stakeholders; and evaluation results are used to improve program performance. Evidence can be shown by: (1) Documentation of evaluation activities consistent with (a) through (e) above; and (2) documentation of participation in scientific forums consistent with the activities above.

(10) Capacity Building Prevention Intervention (To be undertaken after Part 1 Capacity Building Program 1–9 from above have been met).

a. Develop and Implement a water fluoridation program. Provide or develop fluoridation educational materials, as appropriate, to promote water fluoridation. Implement a program to support new replacement water fluoridation equipment. Evaluate the accomplishments of the water fluoridation program.

Performance will be measured by the development, implementation, and coordination of a water fluoridation program. Evidence can be shown by: (1) Documentation of appropriate education and promotion efforts; (2) documentation of communities and populations receiving replacement fluoridation equipment by funding source; (3) extent of progress towards reaching or exceeding Health People 2010 objective of 75 percent of population on public water supplies receiving fluoridated water.

b. Develop, coordinate and implement limited school-based or school-linked dental sealant programs. Describe and document the number of eligible public elementary or secondary schools, and existing related oral health assets. Document infrastructure is in place for the coordination and management of school-based or school-linked dental sealant program and show collaborative working relationships and formal agreements (*e.g.*, MOA, MOU, or other written agreement between the State Health Department and the State educational agency).

Develop school-based or school-linked dental sealant programs targeting public elementary or secondary schools located in: (a) Urban areas, and in which more than 50 percent of the student population of that school or school entity is participating in Federal or State free and reduced meal programs; or (b) rural school districts having a median income that is at or below 235 percent of the poverty line, as defined in section 673(2) of the Community Services Block Grant Act [42 U.S.C. 9902(2)].

Performance will be measured by the development, implementation, and coordination of school-based/school-linked dental sealant programs. Evidence can be shown by: (1) Extent that priority populations have been identified; (2) extent that implementation strategies appropriate to State setting have been developed; percent and number of children in funded programs receiving at least one permanent molar sealant; proportion of eligible schools participating in program; and proportion of children participating in free and reduced cost lunch program receiving at least one sealant.

Optional Cost Analysis Recipient Activities and Performance Measures: Measures include the collection, tracking, and completion of cost analysis for school-based/school-linked dental sealant program. Evaluate the accomplishments, efficiency, and effectiveness of the implemented school-based/school-linked dental sealant programs. Proposals may include requests for technical assistance for the following optional performance measures:

Performance will be measured by the collection, tracking, and accomplishment of a cost-analysis for school-based or school-linked dental sealant programs. Evidence can be shown by: (a) Documentation of baseline mean pit and fissure caries severity (*i.e.*, pit and fissure DMFS) in targeted permanent molars among children three years older than target population; (b) cost-analysis report published and submission made to the ASTDD Best Practices Project.

1.b. Part 2 BASIC IMPLEMENTATION Program Recipient Activities and Performance Measures: Basic Implementation Recipient Activities and Performance Measures include evidence that applicant continues to meet CAPACITY BUILDING program and CAPACITY BUILDING-PREVENTION INTERVENTION program activities and performance measures in section 1.a. above.

(1) Develop a Statewide community water fluoridation program or maintain Statewide fluoridation program that has reached the Healthy People 2010 objective. Enhance or expand existing community water fluoridation demonstration or pilot project into a statewide program showing annual progress.

Performance will be measured by evidence that water fluoridation efforts result in significant progress towards meeting, maintaining or exceeding Healthy People 2010 goals. Evidence can be shown by: (a) Extent that Statewide water fluoridation program incorporates and makes progress in meeting the Engineering and Administrative Recommendations for Water Fluoridation (EARWF, 1995), including: (1) Monthly monitoring and participation; (2) additional fluoridation engineers and/or specialist if appropriate; (3) all fluoridation engineers and/or specialists attend CDC fluoridation engineers and/or specialists attend CDC fluoridation training or equivalent; (4) all water plant operators receive basic fluoridation training; (5) all adjusted fluoridated water systems have annual inspections to insure that all the technical recommendations, including the (a) safety requirements of EARWF are followed; (b) all split sampling reference labs should participate in the CDC Lab Proficiency Testing Program; (c) document progress in increasing percent of fluoridated water systems consistently maintaining optimal levels of fluoride as defined by State and consistent with recommendations outlined in EARWF; (d) document progress toward reaching or exceeding Healthy People 2010 objective; (e) document communities and populations receiving new or replacement fluoridation equipment.

(2) Develop Statewide school-based or school-linked dental sealant program or

maintain school-based or school-linked dental sealant program if the Healthy People 2010 objective has been met. Enhance or expand existing school-based or school-linked dental sealant demonstration or pilot project into a Statewide program showing annual progress. School eligibility criteria as stated in (10)(b) above will be used.

Performance will be measured by evidence that grantee is implementing and expanding school-based or school-linked dental sealant programs Statewide. Evidence can be shown by: (a) Documentation of progress towards reaching or exceeding goal of school-based or school-linked sealant programs in at least 50 percent of eligible schools; (b) significant progress towards increasing: The percent and number of children in Statewide funded programs receiving at least one permanent molar sealant; proportion of eligible schools participating in program; and proportion of eligible schools participating in program; and proportion of children in funded programs participating in free and reduced cost lunch program receiving at least one sealant; (c) demonstrated participation in ASTDD Best Practices project; (d) demonstrated leadership capacity in dissemination and technical assistance to other State sealant programs; (e) progress towards sustainability and institutionalization of sealant program through leveraging of dollars, partnership participation, billing Medicaid and/or SCHIP or other sources of support.

(3) Develop other evidence-based, population-based, intervention strategies consistent with the State Oral Health Plan. Strategies should include policy and systems level approaches. Interventions should be population based, with objectives that specify the population wide changes sought and may address use of dental sealants, water fluoridation efforts, tobacco use, diabetes, poor nutrition, oral health education and, secondary prevention.

Performance will be measured by demonstration of implementation of evidence-based, population-based strategies. Evidence will be shown by: (a) Documentation of evidence-based for intervention initiative; (b) extent that population-based interventions meet the established objectives specifying the population-wide changes sought; and (c) submission to the ASTDD Best Practices Project.

(4) Evaluate intervention components. Design and implement a public health practice evaluation system that collects and analyzes information to be used to measure program progress, community capacity changes, short-term and distal outcomes. Evaluation results and related findings should be used to add to and/or enhance program implementation.

Performance will be measured by evidence that State evaluation capacity and activities have become an on-going normative activity and that State program accomplishments have been collected, evaluated and shared with stakeholders. Evidence can be shown by: (a) Demonstration that the recipient is taking a leadership role in providing technical assistance and transfer of practice knowledge to other States; and b) quantification (in terms of dollars) of resources used and returns on those resources.

(5) Expand oral health program leadership capacity. Expand State oral health team beyond CAPACITY BUILDING level. Provide National leadership by sharing results, with one another, best practices, and other lessons learned to help shape the national agenda and improving the oral health of the public. Capacity should include: (a) Epidemiologic support .50 time at a minimum; (b) demonstrated access to 1.0 time fluoridation engineer/specialist or coordinator (may be less for States with small number of water systems or more for States with a large number of water systems); and (c) demonstrated access to appropriate program support at a minimum: 1.0 time program coordinator, 1.0 time dental sealant coordinator, .50 time capacity for health education, .50 time health communication, .50 time data manager, .25 time grant writer, 1.0 time support staff, and regional consultants, through leveraging of dollars, shared dedicated resources, and letters of support.

Performance will be measured by evidence of expanded leadership and access to needed functions through personnel, leveraging of dollars, shared dedicated resources and/or letters of support, sharing through publications and presentations at national and regional meetings. Evidence can be shown by: (a) The minimum composition of the oral health program is consistent with the activities outlined above; (b) demonstrated with the activities outlined above; and (c) demonstrated evidence of sharing best practices and other lessons learned inside and outside of the State borders through publications and meeting presentations.

(6) Develop and maintain expanded surveillance capacity. The surveillance system is maintained and sustainable, and able to compare State or smaller area data to those from national data sources. Surveillance system should be able to conduct original analyses or forge good working relationships with in-State agencies that will conduct the original analyses. Refer to surveillance logic model at Web site for more information.

Activities should include: (a) Development of regional or county level indicators; (b) development of surveillance system quality checks, establishment of data cleaning protocol, and document data linkages and security procedures; (c) utilization of original analytic analyses and comparisons to national data in dissemination activities and reports; (d) documentation of regional or county level indicators; and (e) collaboration with other programs in the health department to answer key epidemiological questions of mutual interest, *e.g.*, diabetes, tobacco, cancer, MCH.

Performance will be measured by evidence that surveillance is on-going, sustainable activity within the State, is expanded beyond the basic requirements of a core system, and uses data to direct program planning and oral health promotion. Evidence can be shown by: Documentation of activities (a) through (e) above.

(7) Expand the diverse statewide oral health coalition. Expand statewide oral health coalition and address institutionalization and sustainability.

Performance will be measured by evidence of a sustained, diverse statewide oral health coalition with established plans for membership and recruitment of diverse stakeholders. Evidence can be shown by: (a) Extent that coalition has been significantly expanded in both numbers and types of members and documentation of expanded coalition activities; (b) documentation of dedicated support staff; (c) documentation of established communication measures and outreach to community, policy makers and stakeholders; (d) extent of progress towards coalition sustainability such as meeting minutes, schedule of meeting dates and locations; and (e) documentation of active support from stakeholders including funding sources and in-kind contributions.

(8) Address program sustainability by broadening resources. Address the institutionalization of the oral health unit, oral health surveillance system, statewide coalition, and the State's best practice programs.

Performance will be measured by demonstration of condition supportive of the sustainability of State oral health infrastructure and programs. Evidence can be shown by measures including: (a) Non-award funding and measures that activities are institutionalized; (b) demonstration of environment

conducive to the growth of promotion of oral health in three major support areas: Infrastructure and processes, resources and culture/context in the State, and local health department(s); (c) demonstration of shared dedicated resources, leveraging of dollars, and supportive partnerships; (d) demonstrated legislative and other State government support.

(9) Collect, track and complete cost analysis for school-based or school-linked dental sealant program. Evaluate the accomplishments, efficiency, and effectiveness of the implemented school-based or school-linked dental sealant programs. Performance will be measured by the completion of a cost-analysis for school-based or school-linked dental sealant programs. Evidence can be shown by: (a) Documentation of baseline mean pit and fissure caries severity (*i.e.*, pit and fissure DMFS) in targeted permanent molars among children three years older than target population; and (b) cost-analysis report published and submission made to the ASTDD Best Practices Project.

2. CDC Activities. a. Update and provide information related to the purposes and/or objectives of the program announcement related to recipient activities. b. Provide programmatic and technical assistance for recipients and their stakeholders and partners through programmatic and technical consultation, workshops, information exchanges and other forms of guidance, assistance and information sharing to assist the recipient in: (a) The assessment of oral health status and behaviors of target sub-populations; (b) the design and implementation of strategies for prevention interventions based on best available scientific evidence; (c) the design, evaluation and monitoring of interventions effectiveness; (d) the distribution of information documenting lessons learned, best practices and program costs; and (e) the evaluation of State oral health programs.

c. Communicate and share information, evaluations, data, and programmatic activities with other recipients and partners, as appropriate.

d. Coordinate conference calls, workshops, and other information sharing opportunities, as appropriate.

F.4. Content

The program announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan.

This section will outline the requirements for each program and will note additional requirements for each specific Part.

The narrative for Part 1 CAPACITY BUILDING Program should be no more than 36 pages, double-spaced, printed on one side, with one-inch margins, and 12-point Universal unreduced font.

(Part 1) CAPACITY BUILDING Program

1. Executive Summary (not to exceed two pages). Provide a clear, concise two-page written summary to include: (a) Synthesis of need for oral health programs; (b) changes in infrastructure required to support proposed programs; (c) major proposed objectives for implementation of Work Plan (*see* section (4) below and *http://www.cdc.gov/OralHealth/index.htm);* (d) amount of Federal funding requested under Part 1 of this cooperative agreement.

2. Statement of Need (not to exceed seven pages) (a) Describe oral disease burden within the State, indicate specific sub-populations and source(s) of data provided; (b) describe current assets and capacity of the State to reduce identified burdens. Current grantees under Program Announcement 01046, should not include CDC funding from Program Announcement 01046 under existing resources; (c) identify barriers and facilitators likely to affect the reduction of oral disease burden; and (d) describe gaps in Statewide infrastructure affecting the capability of the applicant to perform recipient activities and operate prevention programs.

3. Five-year Plan (Goals) (not to exceed five pages). (a) Design a logic model for State oral health program. *See* Web site for the CDC Logic Model Template. Incorporate planned Capacity Building Prevention Interventions if appropriate, into State oral health logic model; (b) Goals: List feasible, realistic goals related to logic model to achieved in five years.

4. One-year Plan, Activities and Timeline (not to exceed nine pages) Objectives: Provide specific, measurable, and time-phased objectives to accomplish each goal related to the logic model and the performance measures outlined in Section E above. (a) State how achievement of objectives will contribute to meeting the goal; (b) describe the one-year work plan for achieving each objective in Section (3) above. *See* Web site for the CDC Work Plan Template; (c) the one-year work plan should describe activities planned to complete each objective. Applicants must link each time-phased objective and performance measure from Section E above, with the activities intended to support that objective; (d) one-year work plan should establish a time line for completion of each component or major activity; (e) identify specific individual (person) responsible for each objective or activity in the one-year work plan.

5. Evaluation Plan (not to exceed seven pages). a. Describe plan for monitoring progress toward achieving objectives stated in Section (4) above;

b. For each objective, specify how achievement will be documented including measures, data collection protocols, and data quality required to obtain needed information;

c. Using the logic model as a framework, specify: (1) Indicators for process and outcome objectives; (2) expected increase in capacity of the State oral health program, delivery systems, and communities; (3) changes in oral health outcomes;

d. Plans for analysis, interpretation and reporting of findings;

e. Plans for use of findings; and

f. Provide a time-line for the completion of the evaluation.

6. Program Management (not to exceed six pages). (a) Describe employing agencies or institutions, as well as professional backgrounds of existing or proposed staff who will be responsible for each functional project aspect, including in-kind staff resources and percent of time commitment (including in-kind staff resources and percent of time commitment (Include Curriculum Vitae as appropriate); (b) provide evidence of State support for proposed project; (c) describe coalitions involvement in planning, implementation, and evaluation; (d) describe management, coordination team and responsibility for different program aspects; and (e) identify staff that will direct evaluation efforts including additional team members assigned to evaluation tasks. Provide a detailed description of expertise, experience, and delineation of staff, and responsibilities for program evaluation.

7. Budget and Accompanying Justification (no page limitation). Submit a detailed budget and line item justification that is consistent with the purpose of the program and the proposed project objectives and activities, using the format of the sample budget provided at *http://www.cdc.gov/OralHealth/index.htm.*

To the extent necessary, applicants are encouraged to include travel for: (a) Up to four persons associated with this project to each annually attend up to two technical assistance workshops. For

the purpose of the initial funding period, budget for the workshops, training courses, and technical assistance meetings to be held in Atlanta, Georgia; and (b) two staff to annually participate in the National Oral Health Conference. For the purpose of the initial funding period, applicant should budget for the 2004 National Oral Health Conference.

The narrative for Part 2 BASIC IMPLEMENTATION Program should be no more than 45 pages, double-spaced, printed on one side, with one-inch margins, and 12 point Universal unreduced font.

(Part 2) BASIC IMPLEMENTATION Program

Use the application guidance from Part 1 Capacity Building Program with the exception of the page limits and the additional section as outlined below.

1. Executive Summary (not to exceed four pages)
2. Statement of Need (not to exceed seven pages)
3. Eligibility (not to exceed seven pages)

(a) Outline how State oral health program has accomplished activities and performance measures under the Capacity Building Program; (b) outline how your demonstration/pilot CAPACITY BUILDING PREVENTION INTERVENTIONS have been successful. Include a description of activities and performance measures under Section E.1.a as appropriate.

4. Five-year plan (Goals) (not to exceed five pages)
5. One-year Plan, Activities and Timeline (not to exceed nine pages)
6. Evaluation Plan (not to exceed seven pages)
7. Program management (not to exceed six pages)
8. Budget and Accompanying Justification (no page limit)

G.4. Evaluation Criteria

Applicants received from current grantees that are funded under Program Announcement 01046, will be reviewed utilizing the Technical Review process. Applications received from unfunded applicants (new), will be evaluated individually against the following criteria by an independent review group appointed by CDC.

Applications received from grantees funded under Program Announcement 01046 will be reviewed by independent reviewers utilizing the Technical Acceptability Review (TAR) process.

CAPACITY BUILDING Program Criteria

a. One Year Plan (30 points). The extent to which the applicant has addressed Recipient Activities 3 and item 4.a in the Application Content section of Component 4.

b. Five Year Plan (20 points). The extent to which the applicant has addressed Recipient Activities 3 and item 3 in the Application Content section of Component 4.

c. Program Management (20 points). The extent to which the applicant has addressed Recipient Activities 1, 7, 8, and 10 and item 6 in the Application Content section of Component 4.

d. Statement of Need (15 points). The extent to which the applicant has addressed Recipient Activities 1 and 2 and item 2 in the Application Content section of Component 4.

e. Evaluation Plan (15 points). The extent to which the applicant has addressed Recipient Activities 5, 6, and 9 and item 5 in the Application Content section of Component 4.

f. Budget (not scored). The extent to which the applicant has addressed item 7 in the Application Content section of Component 4.

BASIC IMPLEMENTATION Program Criteria

a. One Year Plan (30 points). The extent to which the applicant has addressed Recipient Activities 3 and item 4.a in the Application Content section of Component 4.

b. Five Year Plan (20 points). The extent to which the applicant has addressed Recipient Activities 3 and item 3 in the Application Content section of Component 4.

c. Evaluation Plan (20 points). The extent to which the applicant has addressed Recipient Activities 5, 6, and 9 and item 5 in the Application Content section of Component 4.

d. Program Management (20 points). The extent to which the applicant has addressed Recipient Activities 1, 7, 8, and 10 and item 6 in the Application Content section of Component 4.

e. Statement of Need (10 points). The extent to which the applicant has addressed Recipient Activities 1 and 2 and item 2 in the Application Content section of Component 4.

f. Budget (not scored). The extent to which the applicant has addressed item 7 in the Application Content section of Component 4.

Component 5—Arthritis

D.5. Availability of Funds

Approximately $6,000,000 is available in FY 2003 to fund up to 36 awards. Approximately $3,640,000 is available to fund 28 existing Capacity Building Program Level A grantees under Program Announcement 01097. Capacity Building Program Level A grantees will undergo a technical review of their application and will be funded pending receipt and approval of a technically acceptable application. It is expected that the average award will be $135,000 ranging from $120,000 to $150,000.

Approximately $2,360,000 is available to fund six to eight Capacity Building Program Level B programs. Requests for these funds will be competitive and will be reviewed by an independent objective review panel. It is expected that the average award will be $275,000 ranging from $250,000 to $300,000.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds. The interim progress report will be used as evidence of Capacity Building Program Level A attainment of their respective goals and objectives and readiness to compete for the next level of funding should funds be available. Capacity Building Program Level A grantees wishing to compete for the next level of funding should submit an application that is responsive to the Capacity Level B Program Performance Measures, Application Content and Recipient Activities section of this program announcement including a line-item budget and budget justification. Applications for advancement from a Level A to Level B program will be reviewed by CDC staff utilizing the Technical Acceptability Review (TAR) process. Applications can be submitted in fiscal year 2004, 2005, or 2006. Funding decisions will be made on the basis of satisfactory progress on the appropriate Performance Measures as evidenced by required reports and the availability of funds. Capacity Building Program Level A programs that unsuccessfully compete for Capacity Building Program Level B funding will be funded for a Capacity Building Program Level A.

Use of Funds

Cooperative Agreement Funds may not be used to supplant State or Local funds. In addition, funds may not be used to support primary prevention activities.

Recipient Financial Participation

Matching funds are not required for this program.

E.5. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1a. (Recipient Activities for Capacity Building Program Level A) and

1b. (Recipient Activities for Capacity Building Program Level B Programs) and CDC will be responsible for the activities listed under 2. CDC Activities.

1a. Recipient Activities for Capacity Building Program Level A

1. Staffing: Establish a full-time arthritis program manager to oversee arthritis program activities and to promote an arthritis program within the State. All arthritis program managers are strongly encouraged to take the training ''The Arthritis Challenge'' and ''Arthritis: The Public Health Approach'' located at *http://www.astdhpphe.org.* Performance will be measured by the extent to which the program is appropriately staffed in a timely manner as evidenced by the submission of the name of the program manager, the date of hire, and their completion of the training, ''Arthritis: The Public Health Approach'' as documented by a course completion certificate.

2. Partnerships: Establish an advisory group or coalition to guide, review, and provide direction for the State in all activities directed at reducing the burden of arthritis. The advisory group, at a minimum, should include the local chapter(s) of the Arthritis Foundation. In addition, the State should consider the following as members of the advisory board or coalition:

a. Individuals with expertise in arthritis;

b. Agencies/organizations with activities relevant to arthritis, resources for arthritis activities, and access to target populations (*e.g.*, Area Agencies on Aging, Medicaid/Medicare, managed care organizations, American Association of Retired Persons, senior centers, and faith communities); and

c. Persons with arthritis or family members of persons with arthritis.

As appropriate, States should establish internal workgroups with other components of State government that are directly or indirectly involved in some aspect of arthritis control and prevention.

Performance will be measured by the extent to which there is evidence of diverse, active, and viable partnerships. Documentation should include minutes of meetings, lists of members, copies of by-laws or written operating procedures.

3. Surveillance:

a. Define and monitor the prevalence and impact of arthritis using the Behavioral Risk Factor Surveillance System (BRFSS). It is recommended that funded States collect data using the Arthritis Optional Module of the BRFSS in odd years (*i.e.*, 2003, 2005, 2007)

b. Issue a State of Arthritis Report using, at a minimum, 2001 BRFSS arthritis data. (Arthritis data was collected by all States in calendar year 2001 through the BRFSS). This activity should be completed within the first two years of the cooperative agreement.

c. For years two and beyond surveillance activities should be expanded to include the measuring of intervention reach and effects. Measuring reach includes, but is not limited to, establishing mechanisms to determine annual availability and delivery of evidenced-based self-management programs such as ASHC, PACE, and Arthritis Foundation Aquatics programs. Availability measures the number of programs offered and their geographic dispersion; delivery measures both the number of programs given and the number of persons with arthritis attending. Measuring effects includes, but is not limited to, measuring changes in health impacts, improvement in quality of life, or functioning among those attending the above programs.

Performance will be measured by:

a. The extent to which there is evidence that the burden of arthritis has been defined using BRFSS data that identifies demographics, prevalence, and related risk behaviors (*i.e.*, physical activity and obesity). A State of Arthritis Report has been published and disseminated.

b. The extent to which the grantee is able to demonstrate the ability to define and monitor the number of evidenced-based self management courses available within the State and the number of individuals impacted by these programs.

4. State Plan: Develop or update a State Plan for Arthritis that outlines a proposed framework for activities to reduce the burden of arthritis. This document should be planned with partners and include activities to be implemented by the partners. The plan should not address health department activities only and should be completed within the first eighteen months of the cooperative agreement.

Performance will be measured by the extent to which documentation is provided that a written State plan for arthritis is completed. The plan should contain a description of the State burden of arthritis, and assessment of resources and resource gaps, strategies to decrease the burden of arthritis, priorities, and time-line for implementation of interventions. The plan should be endorsed and supported by partner organizations.

5. Interventions: Implement one or more strategies from the State Arthritis Plan that is consistent with the Public Health Framework for Arthritis (*see http://www.cdc.gov/nccdphp/arthritis*) with a focus on the immediate effects and/or short term goals as outlined in this framework. Activities should be data driven. Applicant should develop implementation plans and evaluation strategies for the proposed intervention(s). Activities should be implemented with a focus on one or more of the following areas:

a. Evidence-based Self Management Education and Physical Activity Interventions: Broaden the reach of evidence-based self management programs, *e.g.*, the Arthritis Self Help Course (ASHC), the promotion of physical activity in individuals with arthritis using land-based exercise programs such as People with Arthritis Can Exercise (PACE) or water-based such as the Arthritis Foundation Aquatics Program.

b. Health Communications Campaigns: Develop or utilizing health communications interventions that will increase/enhance knowledge and beliefs necessary for appropriate management of arthritis. Communications strategies should be designed to increase self-management beliefs and behaviors and to increase the belief that self-management is an important part of arthritis management. The communications activity can be targeted to people with arthritis, and their families, the general public, or non-physician health professionals. CDC developed health communication campaign Physical Activity. ''The Arthritis Pain Reliever,'' may be used. A summary of this material will be posted at *http://www.cdc.gov/nccdphp/arthritis.* Physician education efforts, while worthy, will not be considered as part of this activity.

Performance will be measured by the extent that the grantee can provide documentation that one or more evidenced-base intervention was implemented including: the process used for selecting the intervention, the target audience, the location of the intervention, and data used to support the decision to implement.

1b. Recipient Activities for Capacity Level B Programs

In addition to continuing and enhancing the Recipient Activities for Capacity Building Program Level A, Capacity Building Program Level B Program will include:

1. Surveillance: Examine the availability and applicability of other State-based data sources including but not limited to data from outpatient/ambulatory care settings, managed care

organizations, and follow back surveys of BRFSS respondents. Pharmacy data may also prove useful to better define the burden of arthritis within the State. All surveillance activities outside of BRFSS should be directly linked to programmatic activities.

Performance will be measured by the extent to which non-BRFSS data have been examined and have informed program decisions or enhanced existing activities.

2. Interventions: Implement two or more strategies from the State Arthritis Plan that is consistent with the Public Health Framework for Arthritis with a focus on Evidenced-Based Arthritis Education Programs and/or Health Communications. Capacity Building Level B programs may choose to implement and evaluate physical activity or self-management interventions other than ASHC, aquatics and PACE, that may be beneficial and effective in reducing arthritis related pain and disability and improving the quality of life among persons with arthritis. For these interventions, States must propose an implementation and evaluation plan. This plan should include a description of the program, expected program outcomes, implementation strategies, the role of partners and consultants in implementing and evaluating the program, and the evaluation plan. The evaluation should describe how impact will be measured, domains of interest, proposed data collection tools, and how data will be collected and analyzed. A time-line should be included.

Performance will be measured by:

a. The extent to which grantee can provide documentation that two or more evidenced-base interventions were implemented including: the process used for selecting the intervention, the target audience, the location of the intervention, the role of partners, and data used to support the decision to implement.

b. The extent to which non-evidence based programs have been implemented and evaluated.

Notes: All funded States are expected to adhere to the most current surveillance, intervention, and health communication recommendations that will be posted at *http://www.cdc.gov/nccdphp/arthritis/index.htm.*

2. CDC Activities

a. Provide consultation and technical assistance to plan, implement, and evaluate each component of the program.

b. Provide current information on the status of

c. National efforts as they relate to the implementation of recipient activities.

d. As needed, provide technical assistance in the coordination of surveillance efforts and the use of other data systems to measure and characterize the burden of arthritis, provide standard analyses of BRFSS data for States, and provide data for national level comparisons.

e. Facilitate communication among arthritis programs, other government agencies, and others involved in arthritis control and prevention efforts.

F.5. Content

The program announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. Applications for Capacity Building Program Level A should be no more than 30 pages and Capacity Building Program Level B Programs no more than 40 pages excluding Federal forms, budget, justification, abstract, and appendixes. All applications should be double-spaced, printed on one side, with one-inch margins, and 12-point font. All applicants should also submit as appendices, resumes, job descriptions, organizational charts, and any other supporting documentation as appropriate. All graphics, maps, overlays, etc., should be in black and white and meet the above criteria. All submitted materials must be suitable for photocopying. Your application must be submitted unstapled and unbound.

1. Abstract (All Applicants). A one-page, single-spaced, typed abstract must be submitted with the application. The heading should include the title of the program, organization, name and address of the project director, telephone number, facsimile number, and e-mail address. The abstract should clearly state which level of activities the applicant is applying for: Capacity Building Program Level A, or Capacity Building Level B Program. The abstract should briefly list major program elements and activities. A table of contents that provides page numbers for each section should follow the abstract.

2. Background/Current Status. Capacity Building Program Level A Programs: Describe the burden of arthritis in the State. Identify what data sources are being used, the barriers the State currently faces in developing and implementing a program for arthritis, and identify the specific needs and resources available for arthritis activities.

Capacity Building Level B Programs:

a. Applicants for Capacity Building Programs Level B should provide evidence that they have significantly met the requirements specified in the Recipient Activities for Capacity Building Programs Level A (see Program Recipient Activities Section).

b. In addition, the applicant should adequately describe the burden of arthritis within the State including how the program defines arthritis using BRFSS and other data.

c. Include a description of the barriers the State currently faces in further developing and implementing programs for the control of arthritis.

3. Work-Plan. Provide a work plan that includes objective, methods, evaluation plans, and a time-line for each for the required elements cited in Recipient Activities above. Objectives should describe what is to happen, by when, by whom, and to what degree. Methods should describe the plan for achieving each of the objectives including a description of how partners will be involved. Also included should be a description of how progress toward attainment of the objectives will be monitored.

a. Staffing (All Applicants). Describe how proposed or existing staff has the relevant background, qualifications, and experience to manage a public health program. Include a description of their role in promoting an arthritis program within the State, their specific responsibilities, their role in coordinating activities between relevant programs within the State, how the organizational structure will support the staff's ability to conduct proposed activities, and the level of effort and time to be devoted to the arthritis program. Job descriptions, resumes if available, and an organizational chart should be included.

b. Partnerships (All Applicants). Include plans for developing partnerships with the local chapter(s) of the Arthritis Foundation, State and local agencies, Federal agencies, and others with an interest in arthritis. If partnerships have already been developed, the applicant should describe the process used, and the role of advisory groups, partnerships, or coalitions in the development and implementation of activities in the State Plan for Arthritis. Partnerships are expected to have been ongoing and viable. Applicants should include copies of agendas for all partnership meetings within the past two calendar years. Letters of support should be submitted and should describe the nature and extent of involvement by outside partners.

c. Surveillance

Capacity Building Program Level B

1. Describe plans to monitor the burden of arthritis within the State using BRFSS data and include plans for the development and dissemination of a State of Arthritis Report.

2. Applicant should also describe the method to be used to develop mechanisms to measure programmatic reach and effects of evidenced-based arthritis self-management programs as defined in the ''Recipient Activities'' section of this announcement.

Capacity Building Level B

3. In addition to criteria under Capacity Building Program Level A, applicants for Capacity Building Level B Programs should present plans to examine the availability and applicability of other State-based data sources as described in the ''Recipient Activities'' section.

d. State Plan

Capacity Building Program Level A

Applicants should describe the process to be used for engaging relevant partners and developing a State arthritis plan. If a State plan has been developed, describe the process used for its development, provide agendas for planning meetings, and provide the executive summary of the State plan.

e. Interventions

1. Applicants should describe the process to be used to select the intervention to be implemented.

2. If an already existing State plan or partnership has provided guidance for the selection of the intervention, describe the relationship between the intervention and strategies identified within the State plan and the Public Health Framework for Arthritis. Provide a description of implementation plans, the proposed intervention(s) activity(ies), the target population, geographic location, the actual methods of implementation, a time-line, evaluation strategy, and the role of partners in this process.

Capacity Building Program Level B

a. Address the elements 1 and 2 under Capacity Building Program Level A.

b. If proposing the implementation of non evidenced-based intervention(s), provide an implementation plan that includes a description of the program and expected outcomes. In addition, the evaluation plan should describe how impact will be measured, domains of interest, proposed data collection tools, and how data will be analyzed.

f. Evaluation (All Applicants). Applicant should provide a plan that is capable of monitoring progress toward meeting specified project objectives.

g. Budget (All Applicants). Provide a detailed line-item budget and justifications consistent with the purpose and proposed objectives. Budgets should include travel for one to two program staff to attend a two-day meeting in Atlanta. Proposed sub-contracts should identify the name of the contractor, if known; describe the services to be performed; provide an itemized budget and justification for the estimated costs of the contract; specify the period of performance; and describe the method of selection. If indirect costs are requested, a copy of the Indirect Cost Rate Agreement should be included.

G.5. Evaluation Criteria (100 Points)

Applications received from current grantees that are funded under Program announcement 01097, will be reviewed utilizing the Technical Review process. Applications received from States funded under program announcement 99074 and all other applicants will be evaluated individually against the following criteria by an independent review group appointed by CDC.

A. Capacity Building Program Level A (100 points)

1. Need/Current Status. Capacity Building Program Level A (15 points) Capacity Level B (25 points). The extent to which the applicant addresses the requirements identified in Section F.5. (Application Content) item 3. Point distribution is listed below.

2. Staffing. Capacity Building Program Level A (20 points) Capacity Building Program Level B (10 points). The extent to which the applicant addresses the requirements identified in section E5 (Recipient Activities) section 1a. item 1 and section F.5 (Application Content) item 3a.

3. Partnerships. Capacity Building Program Level A (15 points) Capacity Building Program Level B (15 points). The extent to which the applicant addresses the requirements identified in Section E.5 (Recipient Activities) section 1a. item 2 and section F.5 (Application Content) item 3b.

4. Surveillance. Capacity Building Program Level A (15 points) Capacity Building Program Level B (20 points). The extent to which the applicant addresses the requirements identified in Section E.5 (Recipient Activities) section 1a. item 3; section 1b item 1 and section F.5 (Application content) item 3c.

5. State Plan. Capacity Building Program Level A (15 points) Capacity Building Program Level B (0 points). The extent to which the applicant addresses the requirements identified in Section E.5 (Recipient Activities) section 1a. item 4 and section F.5 (Application Content) item 3d.

6. Interventions. Capacity Building Program Level A (15 points) Capacity Building Program Level B (25 points). The extent to which the applicant addresses the requirements identified in Section E.5 ''Recipient Activities'' section 1a. item 5; section 1b item 2 and section F.5 ''Application Content'' item 3e.

7. Evaluation. Capacity Building Program Level A (5 points) Capacity Building Program Level B (5 points). The extent to which the applicant addresses the requirements identified in Section F.5 (Application content) item 3f.

8. Budget (not scored). The extent to which the applicant addresses the requirements identified in Section F.5 (Application content) item 3g.

9. Human Subjects (not scored). Does the application adequately address the requirements of title 45 CFR Part 46 for the protection of human subjects? Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable.

Component 6—Behavior Risk Factor Surveillance Systems (BRFSS)

D.6. Availability of Funds

Approximately $5,000,000 is available in FY 2003 to fund approximately 54 existing grants under program announcement 99044. It is expected that the average award will be $75,000, ranging from $50,000 to $100,000. It is expected that the awards will begin on or about June 30, 2003 and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Use of Funds

Funds provided under this program announcement cannot be used to conduct community-based pilot or demonstration projects. Cooperative agreement funds may not be used to supplant State or local funds. Cooperative agreement funds may not be used to provide patient care, personal health services, medications, patient rehabilitation, or other cost associated with treatment. Funds awarded under this program announcement may be obligated and expended only for those BRFSS surveillance, data collection, and

related activities identified in the Notice of Grant Award.

E.6. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. Recipient Activities, and CDC will be responsible for the activities listed under 2. CDC Activities.

1. Recipient Activities. a. At a minimum, identify a program director and BRFSS data coordinator dedicated to overall coordination and operations of BRFSS.

b. Adopt the standard BRFSS written protocol that has been developed and formulate a plan for developing and conducting BRFSS data collection activities in conformance with protocols used by other participating States and delineated in the ''BRFSS User's Guide'' and numbered memorandums (The ''BRFSS User's Guide'' is available at *http://www.cdc.gov/brfss*).

c. Develop and implement plans and written procedures for ongoing analysis of behavioral risk factor data Statewide and for selected local areas.

d. Develop and implement plans and written procedures to ensure the routine use of BRFSS data for directing program planning, evaluating programs, establishing program priorities, developing specific interventions and policies, assessing trends, and targeting relevant population groups.

e. Develop and implement plans for the use of BRFSS data to address emerging Public Health chronic disease and injury issues within the State.

f. Develop and implement procedures to increase collaboration with and among State, local, and, as appropriate, national, public, private, voluntary, for-profit and nonprofit agencies, organizations, and universities that analyze data or seek to reduce chronic disease and injury morbidity and mortality.

g. Assure active cooperation and collaboration with recipients of funding from other CDC supported programs (cancer, tobacco use, diabetes, alcohol use, women's health, etc.) and identify opportunities to link program and BRFSS efforts where appropriate and reinforcing, including co-funding of BRFSS activities.

h. Ensure adequate and, as required, periodic training of State BRFSS interviewers. Interviewers must follow the standard BRFSS questionnaire script developed in collaboration with BRFSS member States and should be trained with appropriate standards for telephone interviewing. (The BRFSS Interviewer Training is located in the training section of the BRFSS Web site referenced above in 1.b.)

i. Develop, maintain, and make available to CDC monthly, electronic BRFSS data sets for data management (*i.e.*, editing, cleaning, and weighting).

j. Conduct monthly, monitoring data quality and data management (*i.e.*, through verification and validation efforts).

k. Develop and implement an analysis plan.

l. Participate with others in individual and multi-State analyses comparing data across BRFSS States.

m. Disseminate BRFSS findings through presentations and publications to health departments, professional societies, voluntary agencies, universities, other BRFSS States, and other interested individuals and organizations.

n. Make data and BRFSS findings available for training workshops and meetings at least once a year (*i.e.*, BRFSS Conference).

o. Assure that CDC receives final end-of-year BRFSS data sets on or before February 15 of the following year.

2. CDC Activities. a. Assist BRFSS member States to develop an annual survey instrument to be used by States with States and CDC programs.

b. Assist BRFSS member States to establish standard survey protocols to be followed by States and disseminate them in the ''BRFSS User's Guide'' and in numbered memorandums; and, as appropriate, assist in the development of State-specific protocols.

c. Assist BRFSS member States with designing and obtaining appropriate telephone samples.

d. Assist BRFSS member States in the development of data processing procedures to be used by States and CDC to produce edited data files with standard, uniform formats. Provide program software, training, and on-going technical assistance for operations management, questionnaire data entry, and development of the BRFSS analysis database.

e. Develop and provide to States semi-annual and annual summary reports on selected risk factors related to the leading causes of State morbidity and mortality in a standardized and uniform manner.

f. Assist in training State staff related to data collection, data analysis, interpretation, and use.

g. Conduct or assist with the specification of cleaning, weighting, data editing, variable and format layouts of all data files.

h. Provide technical assistance to resolve problems regarding data collection procedures, response rates, sampling procedures (unbiased sampling and estimate omissions), and database file completeness.

i. Collaborate with State, Federal, and other programs on joint analysis of BRFSS data.

j. Coordinate and facilitate the interchange of technical information among cooperative agreement recipients.

k. Provide BRFSS States with programmatic, epidemiological, and statistical technical assistance.

l. In collaboration with State(s) conduct multi-State and single-State analyses and facilitate dissemination and translation of findings.

m. Participate with States in workshops, training, and meeting to exchange information.

n. Conduct site visits to monitor program operations and to provide technical assistance as needed.

Performance will be measured based on accomplishment of the activities listed above. Evidence can be demonstrated through the quality of data, adherence to survey recommendations, utilization of BRFSS data for program planning and evaluation.

F.6. Content

The program announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Applications will be evaluated on the criteria listed, so it is important to follow them in laying out program plans. The narrative should be no more than 30 double-spaced pages, printed on one side, with one-inch margins, and unreduced font.

Available funds will be allocated first for the costs of an estimated base of 2,000 completed 100-question surveys in each State.

1. Program Management

a. Identify the percentage of the project coordinator's time and related costs for project activities and describe procedures or process (*i.e.*, contractors or in-house) for the management of data collection. Provide job descriptions, resumes, and organizational charts.

b. Include written procedures or describe plans to develop and implement the following:

c. BRFSS data analysis Statewide and for local areas.

d. Use of BRFSS data for directing program planning, program evaluation, setting program priorities, developing interventions, assessing trends, and targeting relevant population groups.

e. To address emerging public health issues.

f. To increase collaboration among State, local, and other agencies, organizations, and universities that analyze data or seek to reduce chronic disease and injury morbidity and mortality.

g. Provide a list of training taken by key BRFSS staff, to include data collection/interviewer staff, within the previous 12 months. Training list should include course title, a brief description of course content, dates of training, and names and titles of staff attending the training.

h. Provide a copy of projected staff training with the course title, course description, dates of training, and names and titles of staff who will be attending training.

2. Operational Plan

a. Provide an estimate of the number of interviews to be completed in addition to the base number of 2000 completed interviews per State per year.

b. Provide a list of the survey questions to be asked in addition to the base-length questionnaire.

c. Identify the percentage of an analyst's time and related costs for analyzing data collected.

d. Provide the title and author(s) of publications produced and/or distributed using BRFSS data.

e. Upgrading computer-assisted telephone interviewing systems and computer systems for analysis and Internet activities.

f. Describe the nature and extent of collaboration and coordination with and support (*i.e.,* financial, shared resources, etc.) from other State programs.

3. Evaluation

Describe the procedures currently used or planned to monitor the performance of the data collection system, adherence to prescribed data collection protocols, and the extent of the use and dissemination of the data.

4. Budget

Provide a detailed budget and line-item justification for all operating expenses. The budget should be consistent with the State's objectives and planned activities of the project. Budget requests should include the cost of two two-day trips to Atlanta for two individuals and the cost of one five-day trip (including travel days) for up to two individuals to attend the annual BRFSS conference. The budget should address funds requested, as well as the applicant's in-kind or direct support.

G.6. Evaluation Criteria (100 points)

Applications received from current grantee that are funded under program announcement 99044, will be reviewed utilizing the Technical Review process.

1. Operational Plan (50 points). The extent to which the applicant has addressed Recipient Activities 1.b, 1.c, 1.d, 1.e, 1.k, 1.m, and items 1 through 6 in the Application Content section.

2. Program Management (25 points). The extent to which the applicant has addressed Recipient Activities 1.a, 1.g, 1.h, 1.i, and items 1 through 5 in the Application Content section.

3. Evaluation (25 points). The extent to which the applicant has addressed Recipient Activities 1.i, 1.j, and 1.o, and item 3 in the Application Content section.

4. Budget (Not Weighted). The extent to which the applicant has addressed item 4 in the Application Content section.

Component 7—Genomics and Chronic Disease Prevention

D.7. Availability of Funds

Approximately $1,000,000 is available in FY 2003 to fund approximately three to five States' program awards. It is expected that the average award will be $200,000 ranging from $150,000 to $250,000.

Use of Funds

Funds awarded under this component may not be used to conduct genomic research or pay for patient services such as genetic testing or counseling. Cooperative agreement funds may be used to develop or enhance the State Health Department's capacity for planning with other agency programs and outside partners, and implementing the use of genomic information (*e.g.* genetic testing and family history data) in public health policy and programs. Funds may also be used to enhance data collection through disease registries and other surveillance systems and to develop public health work-force competency in the use of genomics for disease prevention. Developing genomic leadership capacity will enhance comprehensive chronic disease prevention and health promotion by establishing cross-cutting activities with one or more disease-specific programs and increasing collaboration across the agency in epidemiology, environmental health, infectious disease, maternal and child health, and related programs that increase the effectiveness of chronic disease prevention.

E.7. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. Recipient Activities, and CDC will be responsible for the activities listed under 2. CDC Activities.

1. Recipient Activities

Note: In this announcement, integrating genomic and the use of family history into chronic disease program planning, policy development, and intervention design includes, but is not limited to, (a) Establishing or expanding leadership capacity in the field of genomics, (b) developing and implementing population-based assessments and incorporating genomic information into disease-specific data collection through surveillance and registries, (c) developing expanded uses of genomics in programmatic activities including BRFSS and the analysis of vital records and other sources important in population-based analysis, (d) educating the health workforce, policy makers, and the public about the importance of understanding the role of family history and genetic risk factors in disease etiology and prevention, and (e) specifically preparing the chronic disease workforce for using genomic tools to reduce the burden of specific diseases and understanding the benefits and limitations of available genetic tests.

a. Develop or strengthen the health agency organizational capacities for assessing and utilizing existing genomics and public health program experience and expertise in planning the integration of genomics into existing chronic disease prevention and health promotion programs.

b. Acquire or enhance the leadership capacity required to integrate genomics into existing or planned chronic disease prevention and health promotion programs. In this effort, coordination of the core public specialties (such as epidemiology, laboratory services, policy development, and infectious disease prevention) to integrate genomics and family history, as appropriate, is required. The use of genomics within public health requires collaboration with academic and health care organizations that can provide technical assistance and expertise in expanding program and policy development. Leadership capacity may include: (a) Designating a State agency-wide, or chronic disease genomics coordinator or team, expanding existing leadership roles to include chronic disease and other disease-specific responsibilities, and/or coordinating a team representing all or selected public health disease programs; (b) the availability of adequate epidemiologic, genomics, laboratory, health education, communications expertise and program support; and (c) a mechanism for assessing and increasing the genomic and public health competency of the chronic disease work-force through technical assistance and specific

training activities. Information of work force competency is available at: *http://www.cdc.gov/genomics/training/competencies/comps.htm.*

c. Utilizes national, regional and State training and technical assistance resources for program development, and expands collaborative relationships with key academic institutions such as the Centers for Genomics and Public Health (Link to: *http://www.cdc.gov/genomics/training/competencies/comps.htm).*

Ensures that State professional organizations, industry, community representatives or key partners and community are key partners throughout the planning process.

d. Develop and implement a plan for integrating genomics and related risk assessment tools such as family history into core public health activities and priorities for one or more chronic infectious, environmental, Maternal and Child Health or other public health programs during the first year.

e. Plan and coordinate the assessment and use of various types of targeted risk assessment strategies related to enhanced disease prevention based on genomics and family history tools. Collaborate with professional, industrial, and academic resources and partners in the testing, assessment, and usage of risk assessment tools that help organize knowledge about inheritable factors into a process for early recognition of increased disease susceptibility and strategies for disease prevention.

f. Plan and coordinate the assessment and use of various types of targeted risk assessment strategies related to enhanced disease prevention based on genomics and family history tools. Collaborate with CDC and the Centers for Genomics and Public Health in the testing, assessment, and usage of family history tools that help organize knowledge about heritable factors into a process for early recognition of increased disease susceptibility and strategies for disease prevention.

2. CDC Activities

a. Convene workshop and/or teleconference of recipient Programs for information-sharing and problem solving.

b. Provide ongoing guidance, consultation, and technical assistance to plan, implement, and evaluate all aspects of program activities. Activities include assisting with analyses and interpretation of the rapidly expanding knowledge base on public health genomics and findings from qualitative and quantitative research; guiding program evaluation, and sharing community, environmental and policy strategies to promote the integration of genomics across health agency programs associated with chronic disease program activities. Disseminate relevant state-of-the-art research findings and public health recommendations related to genomics and disease-specific prevention and control.

c. On a consultative basis, assist in the development and review of intervention protocols and program evaluation methods.

d. Coordinate national level partnerships with relevant organizations and agencies involved in the translation of genomics and family history into relevant guidelines and recommendations for public health policy development and program action.

F.7. Content

The program announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. Applications should be no more than 20 pages excluding Federal forms, budget, justifications, abstract, and appendices. All applications should be double spaced, printed on one side, with one-inch margins, and 12-point font. All applicants should also submit as appendices, resumes, job descriptions, organizational charts, and any other supporting documentation as appropriate. All graphics maps, overlays, etc., should be in black and white and meet the above criteria. All submitted materials must be suitable for photocopying. Your application must be submitted UNSTAPLED and UNBOUND.

1. Abstract. A one-page, single-spaced, typed abstract must be submitted with the application. The heading should include the title of the program, organization, name and address of the project director, telephone number, facsimile number, and e-mail address. The abstract should briefly list major program elements and activities. A table of contents that provides page numbers for each section should follow the abstract.

2. Background, Need, and Understanding. Describe the status of health agency activities and capacity for establishing coordinated leadership in genomics to guide crosscutting health policy and program development. Provide status and level of involvement of chronic disease, infectious disease, environmental health, epidemiology, maternal and child health, and laboratory within this agency leadership capacity. Describe the extent to which genomics is integrated into chronic disease programs function and the proposed or actual placement of a focus for genomic activities within that structure. Discuss any agency actions implemented or planned that facilitate the integration of genomics and/or the use of family history in developing risk factor assessments and targeting disease prevention efforts. Provide evidence of the readiness of the agency and its program to integrate genomics and family history into chronic disease prevention and health promotion planning, policy development, and intervention activities. Identify the specific components of this, or other chronic disease program announcements, or the crosscutting issues, to be addressed.

3. Work-plan. Provide a work plan that addresses each of the required elements cited in the Recipient Activities above. The work plan should include:

a. Program Objectives for each of the Recipient Activities. Objectives should describe what is to happen, by when, by whom, and to what degree.

b. The proposed method of achieving each of the objectives.

c. The proposed plan for evaluating progress toward attainment of the objectives.

d. A milestone, time line, and completion chart for all objectives for the project period.

4. Budget. Provide a detailed line-item budget with justifications consistent with the purpose and proposed objectives. Clearly differentiate budget amounts and activities requested through this component from the resources or activities of other components or programs. Budgets should include travel for one to two persons to attend a two-day meeting in Atlanta. Proposed sub-contracts should identify the name of the contractor, if known; describe the services to be performed; provide an itemized budget and justification for the estimated costs of the contract; specify the period of performance; and describe the method of selection. If indirect costs are requested, a copy of the Indirect Cost Rate Agreement should be included.

G.7. Evaluation Criteria

Applications for this component will be objectively reviewed against the following criteria by an independent review group appointed by CDC.

1. Background, Need, and Understanding (25 points). The extent to which the applicant describes

Background, Need as presented in the application content section (F.8.4), and demonstrates an Understanding of the intent and focus of the program as presented in the Recipient Requirements (E.8.1).

2. Work Plan

a. Program Objectives (25 points). The extent to which the applicant presents specific, measurable, and time phased objectives for each Recipient Requirement (E.8.1.a–e).

b. Methods of Achieving the Objectives (25 points). The extent to which the applicant's plan for each Recipient Requirement (E.8.1 a–e) will accurately monitor, and permit re-direction of activities.

c. Plan for Evaluating Progress (15 points). The extent to which the evaluation plan for each Recipient Requirement (E.8.1 a–e) will accurately monitor, and permit re-direction of activities.

d. Milestone, Timeline, and Completion Chart (10 points). The extent to which the chart(s) provided represents an effective tool for monitoring program progress.

3. Abstract (Not scored). The extent to which an overview of the program is provided in a clear and concise manner.

4. Budget and Justification (Not scored). The extent to which the line item budget justification is reasonable and consistent with purpose of this component and program goal(s) and objectives of the cooperative agreement.

Program Performance Measures

Performance measures for the first year: 1. Evidence that States have performed a review of organizational and operational capacities for integrating genomics into public health practices and policies.

2. Evidence that States have identified and defined the nature and scope of population-based data, genomics information, and leadership capacity necessary to integrate genomics into chronic disease and other public health program activities.

3. Evidence that States have developed and initiated a plan for integrating genomics and risk assessment tools such as family history into one or more chronic, infectious, environmental, maternal and child health, or other public health programs.

4. Evidence that the States have formed partnerships with academic institutions, professional organizations, community and industry groups and involved them in the planning of genomic integration activities.

Five Year Performance Measures

1. Evidence that the States have integrated genomics and related risk assessment tools, such as family history, as a routine component of disease investigations and analysis.

2. Evidence that the States have used population-based data and the expanding genomics knowledge base to develop or revise chronic, environmental, and infectious disease programmatic activities, interventions, and policies.

3. Evidence that the States have conducted preliminary evaluations of the impact of genomics in case identification, disease prevention, economic, and disease specific health outcome.

Note: This section applies to all components.

H. Submission and Deadline

Submit the original and two copies of CDC form 0.1246. Forms are available in the application kit and at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

Note: Your application should be submitted as one application but should consist of specific Categorical Components to allow each categorical program to remove their section of the application to assist with the preparation of the application.

The application must be received by 4:00 p.m. Eastern Time March 28, 2003. Submit the application to: Technical Information Management Section—Program Announcement 03022, Procurement and Grants Office, Center For Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146.

Deadline Applications will be considered as meeting the deadline if they are received before 4:00 p.m. Eastern Time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or if significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications which do not meet the above criteria will not be eligible for competition and will be discarded. Applicants will be notified of their failure to meet the submission requirements.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Interim progress report, the interim progress report will be due February 15, 2004, and subsequent interim progress reports will be due on the 15th of February each year through February 15, 2008, except for Component 6. The second report (annual progress report) is due 90 days after the end of the budget period (30th of September). The progress report, due in February, will serve as your non-competing continuation application and must include the following elements:

a. A succinct description the program accomplishments/narrative and progress made in meeting each Current Budget Period Activities Objectives during the first six months of the budget period (June 30th through December 31st).

b. A succinct description of the program accomplishments/narrative and progress made in meeting each Current Budget Period Activities Objectives during the first six months of the budget period (June 30th through December 31st).

c. The reason(s) for not meeting established program objectives and strategies to be implemented to achieve unmet objectives.

d. Current Budget Period Financial Progress.

e. New Budget Period Proposed Activities and Objectives.

f. Detailed Line-Item Budget and Justification.

g. For all proposed contracts, provide the name of contractor, method of selection, period of performance, scope of work, and itemized budget and budget justification. If the information is not available, please indicate ''To Be Determined'' until the information becomes available; it should be submitted to CDC Procurement and Grants Management Office contact identified in this program announcement.

Applicable for Program Components 2 (Nutrition, Physical Activity and Obesity), 3 (WISEWOMAN), 4 (State-Based Oral Disease Prevention), and 5 (Arthritis), only:

The interim progress report that is due on the 15th of February will also be used as evidence of a program's readiness to move from level to the next higher level based on attainment of goals and objectives when funding is available. Applicants wishing to

compete for the next funding level should submit items a, b, d, e, f, and g above and the information requested in the next funding level Recipient Activities and Application Content identified in this program announcement including a line item budget and budget justification.

Applicants can be submitted in fiscal years 2004, 2005, 2006, and 2007 but be received by February 15th of the specific submission year. Funding decisions will be made on the basis of attainment of current goals and objectives as evidenced by the require reports, application score, and the availability of funds.

2. Financial status report, no more than 90 days after the end of the budget period. The financial status report should include an attachment that identifies unspent balances for each program component.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program.

AR–1 Human Subjects Requirements (Component 2 & 3)
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research (Component 2 & 3)
AR–7 Executive Order 12372 Review
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke Free Workplace Requirements
AR–11 Health People 2010
AR–12 Lobbying Restrictions

J. Where To Obtain Additional Information

For this and other CDC announcements, the necessary applications, and associated forms can be found on the CDC home page Internet address—*http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements.''

Business management and technical assistance may be obtained from: Lucy Picciolo, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: 770–488–2683, E-mail address: *lip6@cdc.gov.*

Business management technical assistance for the U.S. Territories may be obtained from: Charlotte Flitcraft, Contract Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: 770–488–2632, E-mail address: *caf5@cdc.gov.*

Business Management technical assistance for Territories may be obtained from: Charlotte Flitcraft, Contract Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: 770–488–2632, E-mail address: *caf5@cdc.gov.*

For program technical assistance, contact: Component 1—Comprehensive State-Based Tobacco Use Prevention and Control Programs: Dianne May, Program Services Branch, Office on Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy, NE, MS K50, Atlanta, GA 30341, Telephone number: (770) 488–1104, E-mail address: *dmay@cdc.gov.*

Component 2—State Nutrition and Physical Activity Programs to Prevent Obesity and Other Chronic Diseases: Robin Hamre, Obesity Prevention Programs Team Leader, Division of Nutrition and Physical Activity, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy., NE, MS K24, Atlanta, GA 30341, Telephone number: (770) 488–6050, E-mail address: *rwh9@cdc.gov.*

Component 3—WISEWOMAN: Julie C. Will, PhD, MPH, WISEWOMAN Team Leader, Division of Nutrition and Physical Activity, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy., NE, MS K26, Atlanta, GA 30341, Telephone number: (770) 488–6024, E-mail address: *jxw6@cdc.gov.*

For WISEWOMAN Definitions see WISEWOMAN Guidance Document: Interpretation of Legislative Language and Existing Documents at *http://www.cdc.gov/wisewoman.*

Component 4—State Based Oral Disease Prevention Programs: Kathleen Heiden, RDH, MSPH, Division of Oral Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy., NE, MS F10, Atlanta, GA. 30341, Telephone number: (770) 488–6056, E-mail address: *orhealthgrants@cdc.gov.*

Component 5—Arthritis: Sakeena Smith, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy., NE, MS K66, Atlanta, GA 30341–3717, Telephone (770) 488–5440, E-mail address: *szs4@cdc.gov.*

Component 6—BRFSS: Ruth Jiles, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy., NE, MS K66, Atlanta, GA 30341–3717, Telephone (770) 488–2542, E-mail address: *Rjiles@cdc.gov.*

Component 7—Chronic Disease Genomics: Ann Malarcher, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy., NE, MS K47, Atlanta, GA 30341, Telephone: (770) 488–8006, E-mail address: *aym8@cdc.gov.*

Dated: January 13, 2003.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

K. Appendices

Relevant to WISEWOMAN Component:

APPENDIX A.—ELIGIBILITY

Applicant	Competitive		Funding level		Type of program	
	Yes	No	1st	2nd	Standard	Enhanced
States:						
Alabama	X		X		X	X

APPENDIX A.—ELIGIBILITY—Continued

Applicant	Competitive		Funding level		Type of program	
	Yes	No	1st	2nd	Standard	Enhanced
Alaska	X		X		X	X
Arizona	X		X		X	X
Arkansas	X		X		X	X
California		X		X		X
Colorado	X		X		X	X
Connecticut		X		X	X	
Delaware	X		X		X	X
Florida	X		X		X	X
Georgia	X		X		X	X
Hawaii	X		X		X	X
Idaho	X		X		X	X
Illinois		X		X		X
Indiana	X		X		X	X
Iowa		X		X		X
Kansas	X		X		X	X
Kentucky	X		X		X	X
Louisiana	X		X		X	X
Maine	X		X		X	X
Maryland	X		X		X	X
Massachusetts		X		X	X	
Michigan		X		X	X	
Minnesota	X		X		X	X
Mississippi	X		X		X	X
Missouri	X		X		X	X
Montana	X		X		X	X
Nebraska		X		X	X	
Nevada	X		X		X	X
New Hampshire	X		X		X	X
New Jersey	X		X		X	X
New Mexico	X		X		X	X
New York	X		X		X	X
North Carolina		X		X		X
North Dakota	X		X		X	X
Ohio	X		X		X	X
Oklahoma	X		X		X	X
Oregon	X		X		X	X
Pennsylvania	X		X		X	X
Rhode Island	X		X		X	X
South Carolina	X		X		X	X
South Dakota		X		X	X	
Tennessee	X		X		X	X
Texas	X		X		X	X
Utah	X		X		X	X
Vermont		X		X	X	
Virginia	X		X		X	X
Washington	X		X		X	X
Washington, D.C.	X		X		X	X
West Virginia	X		X		X	X
Wisconsin	X		X		X	X
Wyoming	X		X		X	X
Territories:						
American Samoa	X		X		X	X
Guam	X		X		X	X
N. Mariana Islands	X		X		X	X
Puerto Rico	X		X		X	X
Republic of Palau	X		X		X	X
Virgin Islands	X		X		X	X
Tribes:						
Arctic Slope	X		X		X	X
Cherokee Nation	X		X		X	X
Cheyenne River	X		X		X	X
Consolidated Tribal Health	X		X		X	X
Hopi	X		X		X	X
Indian Community Health	X		X		X	X
KAW Nation	X		X		X	X
NARA	X		X		X	X
Navajo	X		X		X	X
Poach Band	X		X		X	X
South Puget	X		X		X	X
South-central		X		X		X

APPENDIX A.—ELIGIBILITY—Continued

Applicant	Competitive		Funding level		Type of program	
	Yes	No	1st	2nd	Standard	Enhanced
Southeast Alaska	.....	X	.....	X	X	
Yukon-Kuskokwim	X	.....	X	.....	X	X
All other programs funded by NBCCEDP	X	.....	X	.....	X	X
All other programs not funded by NBCCEDP	Not eligible	.....	.....	.....	.....	.....

APPENDIX B.—TYPE OF PROGRAM AND PERFORMANCE REQUIREMENTS

[Depending on type of program and level of funding, a project is expected to complete the performance activities detailed in the appropriate cell]

Funding level	Type of program and performance requirements	
	Standard Demonstration Project (Available for applicants applying in FY 2003 and FY 2004) *Standard Best Practices Project* (Available in FY 2005 and later)	*Enhanced* (Available for applicants applying in FY 2003 and later)
First Annual Funding: $50,000 to $250,000 (Standard); $250,000 to $500,000 (Enhanced)	(1) Complete Program Startup Activities found in checklist*.	(1) Complete Program Startup Activities found in checklist including IRB protocols*.
	(2) Test activities using pilot study methods	(2) Receive IRB approval.
	(3) Screen 500 women annually for blood pressure and cholesterol and provide all with health education.	(3) Test methods in pilot study that includes screening and intervention activities.
	(4) Ensure at least 60 percent of newly screened women receive complete lifestyle intervention program.	(4) Demonstrate adequate power to test effectiveness of lifestyle interventions in a full-scale study.
	(5) If applying in FY 2005 or later, programs must implement WISEWOMAN-recommended best practices (recommendations available in FY 2005).	(5) Prepare publishable manuscript
Second Annual Funding: $250,000 to $750,000 (Standard); $750,000 to $1,250,000 (Enhanced); Funding level for Standard and Enhanced Programs depends on success in meeting or exceeding performance requirements	(1) Screen at least 2500 women each year for blood pressure and cholesterol and provide all with health education**.	(1) Screen and intervene with enough women to achieve statistical power as determined during 1st level
	(2) Ensure at least 60 percent of new women receive complete lifestyle intervention.	(2) Ensure 75 percent of eligible women in intervention group receive complete intervention
	(3) Demonstrate that newly enrolled participants adopt a healthier lifestyle during the year following enrollment**.	(3) Demonstrate that intervention group adopts a healthier lifestyle during the year following enrollment**
	(4) Demonstrate that at least one quarter of women screened are newly detected with high blood pressure or high cholesterol**.	(4) Demonstrate statistically significant difference on one key outcome.
	(5) Demonstrate a reduction in expected coronary heart disease deaths per 1000 women expected in 10 years***.	(5) Develop monograph and/or training on methods to help other projects adopt successful program
		(6) Submit at least one manuscript on methods and results to a peer-reviewed journal

*Program Start-Up Checklist developed by the North Carolina WISEWOMAN program is found on page 18 of the monograph ''Integrating Cardiovascular Disease Prevention into Existing Health Services: The Experience of the North Carolina WISEWOMAN Program'' at *http://www.hpdp.unc.edu/wisewoman/manual.htm.*

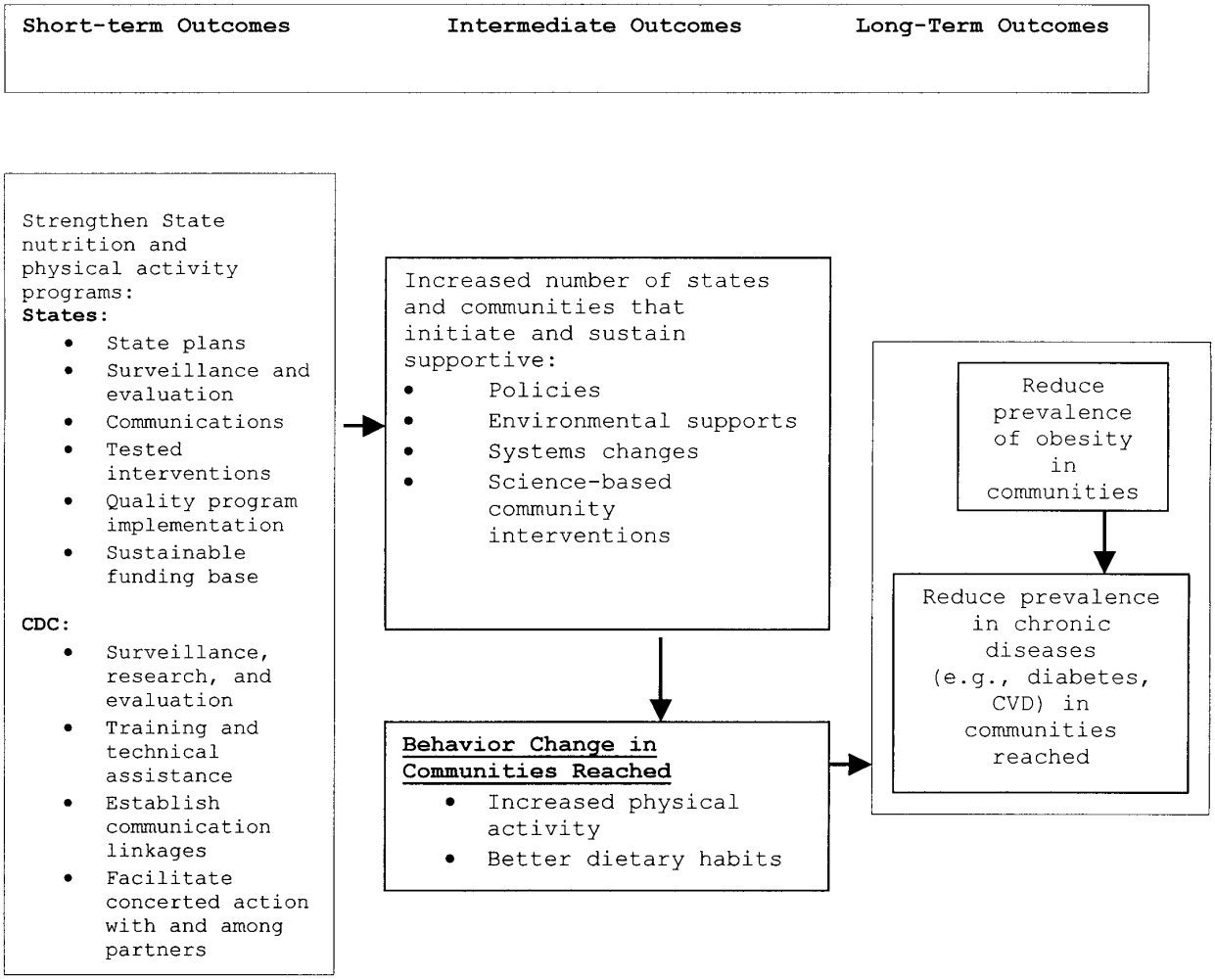
**See GPRA measures developed May 17, 2002 found in WISEWOMAN Guidance Document: Interpretation of Legislative Language and Existing Documents at *http://ww.cdc.gov/wisewoman.*

***Use Framingham risk formulation that includes smoking, systolic blood pressure, total cholesterol, and age. This is calculated from minimum data elements.

BILLING CODE 4163–18–P

Appendix C

Framework for Performance Measures of Nutrition & Physical Activity Programs to Prevent Obesity & Chronic Diseases



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Appendix D —Eligibility for Program Announcement 03022 Chronic Disease Prevention and Health Promotion Programs

Component 1: State-Based Basic Implementation Tobacco Prevention and Control Programs

Applications received from current grant recipients under: Program Announcement 99038, Comprehensive State-Based Tobacco Use Prevention, and Control Programs, will be funded upon receipt and approval of a technically acceptable application.

Component 3: Well-Integrated Screening and Evaluation for Women Across the Nation

Applications received from current grant recipients under Well Integrated Screening and Evaluation for Woman Across the nation (WISEWOMAN):

Program announcement 00115 WISEWOMAN

Program Announcement 99135 WISEWOMAN

Program Announcement 01098 WISEWOMAN Enhanced, will be funded upon receipt and approval of a technically acceptable application.

Component 4: State-Based Oral Disease Prevention Program

Applications received from current grant recipients under: Program Announcement 01046 Support State Oral Disease Prevention Programs, will be funded upon receipt and approval of a technically acceptable application.

Component 5: Arthritis

Applications received from current grant recipients under: Program Announcement 01097 Reducing the Impact of Arthritis and Other Rheumatic Conditions, will be funded upon receipt and approval of a technically acceptable application.

Component 6: Behavioral Risk Factor Surveillance Systems (BRFSS)

Applications received from current grant recipients under: Program Announcement 99044 Behavioral Risk Factor Surveillance System (BRFSS), will be funded upon receipt and approval of a technically acceptable application.

[FR Doc. 03–1065 Filed 1–22–03; 8:45 am]

BILLING CODE 4163–18–P

Federal Register

Thursday,
January 23, 2003

Part III

Department of Housing and Urban Development

24 CFR Part 401

Authority To Waive the Market-to-Market Regulations; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 401

[Docket No. FR–4791–F–01]

Authority To Waive the Market-to-Market Regulations

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises HUD's regulations for the Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark-to-Market). The final rule provides that the Assistant Secretary for Housing-Federal Housing Commissioner, and not the Director of the Office of Multifamily Housing Assistance Restructuring (OMHAR), has the authority to waive the Mark-to-Market regulation.

DATES: Effective Date: February 24, 2003.

FOR FURTHER INFORMATION CONTACT: Eliot C. Horowitz, Senior Advisor to the Assistant Secretary for Housing-Federal Housing Commissioner, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9110, Washington, DC 20410–0500. Telephone (202) 708–1490 (this is not a toll-free number). A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 1–800–877–9339 (Federal Information relay Service) (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Housing and Urban Development Reform Act (Pub. L. 101–235; 103 Stat.1987; December 15, 1989) (Reform Act), included provisions governing the manner in which HUD can waive regulations. Specifically, section 106 of the Reform Act amended section 7 of the Department of Housing and Development Act (HUD Act) by adding a new subsection 7(q) (42 U.S.C. 3535 (7)(q)). Section 7(q)(2) of the HUD Act provides that a regulation can only be waived ''by an individual of Assistant Secretary rank or equivalent rank, who is authorized to issue the regulation to be waived.''

Section 622 of the Mark-to-Market Extension Act of 2001 (Title VI of the 2002 Appropriations Act for the Departments of Labor, Health and Human Services, and related agencies, Public Law 107–116, 115 Stat. 2177, approved January 10, 2002) amended section 572 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, 42 U.S.C. 1437f note, (MAHRA), altering the manner in which the Director of OMHAR is appointed. Previously, the President made the appointment, subject to confirmation by the United States Senate. Under the new law, the President makes the appointment, but Senate confirmation is not required. Consequently, the individual appointed as the Director of OMHAR is not of the equivalent rank of an Assistant Secretary (as the latter appointment requires Senate confirmation).

The Mark-to-Market Extension Act of 2001 also amended section 578 of MAHRA to provide that ''all authority and responsibilities assigned under this subtitle to the Secretary shall be carried out through the Assistant Secretary of the Department of Housing and Urban Development who is the Federal Housing Commissioner.''

In tandem, the three legislative provisions cited above require that the Assistant Secretary for Housing-Federal Housing Commissioner is authorized to waive regulations under part 401, whereas the Director of OMHAR cannot. The Assistant Secretary for Housing-Federal Housing Commissioner has undertaken this responsibility since the enactment of the Mark-to-Market Extension Act of 2001. Today's amendment to 24 CFR 401.3 updates the regulation to comport with current law and practice.

Findings and Certification

Justification for Final Rule

In general, the Department publishes a rule for public comment before issuing the rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10 includes exceptions to the general rule, including where the regulatory amendment governs the Department's organization, internal practices or procedures. This rule amendment reflects statutory requirements that pertain to the Department's organization, practices and procedures and merely conforms part 401 to section 572 of MAHRA, as amended. The Department has determined, therefore, that prior notice and comment are not required.

Environmental Review

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing rehabilitation, alteration, demolition, or new construction, or establish, revise or provide for standards for construction, or construction materials, manufactured housing or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (12 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This final rule will not impose a federal mandate that will result in expenditures by state, local, or tribal governments and the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule would not have a significant economic impact on a substantial number of small entities. The reason for HUD's determination is that the rule only addresses the Department's internal practices and procedures.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either (1) imposes substantial direct compliance costs on state and local governments and is not required by statute, or (2) the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

List of Subjects in 24 CFR Part 401

Grant programs-housing and community development, Loan programs-housing and community development, Low and moderate income housing, Mortgage insurance, Mortgages, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD is amending 24 CFR part 401 to read as follows:

PART 401—MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING PROGRAM (MARK-TO-MARKET)

1. The authority for 24 CFR part 401 continues to read as follows:

Authority: 12 U.S.C. 1715z–1 and 1735f–19(b); 42 U.S.C. 1437f note and 3535(d).

2. Revise § 401.3 to read as follows:

§ 401.3 Who may waive provisions in this part?

The Assistant Secretary for Housing-Federal Housing Commissioner may waive any provision of this part, subject to § 5.110 of this title.

Dated: January 9, 2003.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 03–1410 Filed 1–22–03; 8:45 am]

BILLING CODE 4210–27–P

Federal Register

Thursday,
January 23, 2003

Part IV

Department of Housing and Urban Development

24 CFR Part 2004

Office of Inspector General Subpoenas and Production in Response to Subpoenas or Demands of Courts or Other Authorities; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 2004

[Docket No. FR–4742–F–02]

RIN 2508–AA13

Office of Inspector General Subpoenas and Production in Response to Subpoenas or Demands of Courts or Other Authorities

AGENCY: Office of Inspector General, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Office of Inspector General (OIG) to implement the statutory requirements concerning the issuance of OIG subpoenas, and responses to subpoenas issued to OIG employees in proceedings where OIG is not a party. This final rule follows publication of a proposed rule on September 20, 2002. No public comments were received in response to the proposed rule. Accordingly, the Department is adopting the proposed rule without change.

DATES: Effective Date: February 24, 2003.

FOR FURTHER INFORMATION CONTACT: Bryan Saddler, Counsel to the Inspector General, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8260, Washington, DC 20410. Telephone (202) 708–1613 (this is not a toll-free number). A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 1–800–877–8339 (Federal Information Relay Services) (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background—The September 20, 2002 Proposed Rule

On September 20, 2002 (67 FR 59428), HUD published a proposed rule to amend the regulations of the HUD/OIG by updating the regulations in 24 CFR part 2004. The proposed rule provided that the Inspector General would delegate to the Counsel to the Inspector General the authority and responsibility for responding to requests and demands for production of OIG records and testimony of OIG employees (§ 2004.20). The proposed rule also identified the factors that OIG would consider in making determinations in response to such requests and what information requesters must provide (§§ 2004.21 and 2004.22). The proposed rule further specified when the request should be submitted (§ 2004.22), the time period for review (§ 2004.24), potential fees (§ 2004.29), and, if a request is granted, any restrictions that may be placed on the disclosure of records or the appearance of an OIG employee as a witness (§§ 2004.26 and 2004.27). The proposed rule also indicated that the charges for witnesses are the same as those provided by the federal courts. Additionally, the rule explained that the fees related to production of records are the same as those charged under OIG's Freedom of Information Act regulation at 24 CFR part 2002. The rule further advised that the proposed charges for time spent by an employee to prepare for testimony and for production of records by OIG are authorized under 31 U.S.C. 9701. Under 31 U.S.C. 9701, an agency may charge for services or things of value that are provided by the agency.

II. This Final Rule

This final rule follows publication of the September 20, 2002, proposed rule, which invited public comment on the rule. The public comment period closed on November 19, 2002, with the Department's receiving no comments on the proposed rule. Accordingly, the Department is adopting the proposed rule without change.

III. Findings and Certifications

Environmental Review

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321).

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U. S. C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This final rule would not impose a federal mandate that will result in expenditures by state, local, or tribal governments and the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule would not have a significant economic impact on a substantial number of small entities. There are no anti-competitive discriminatory aspects of the rule with regard to small entities and there are not any unusual procedures that would need to be complied with by small entities. Although HUD has determined that this final rule would not have a significant economic impact on a substantial number of small entities, HUD welcomes comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either (1) imposes substantial direct compliance costs on state and local governments and is not required by statute, or (2) the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

List of Subjects in 24 CFR Part 2004

Administrative practice and procedure, courts.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR part 2004 to read as follows:

PART 2004—SUBPOENAS AND PRODUCTION IN RESPONSE TO SUBPOENAS OR DEMANDS OF COURTS OR OTHER AUTHORITIES

1. Part 2004 is revised to read as follows:

Subpart A—General Requirements

Sec.
2004.1 Scope and purpose.
2004.2 Applicability.
2004.3 Definitions.

Subpart B—Office of Inspector General Subpoenas

2004.10 Service of an Office of Inspector General subpoena.

Subpart C—Requests for Testimony and Production of Documents

2004.20 General prohibition.
2004.21 Factors OIG will consider.
2004.22 Filing requirements for demands or requests for documents or testimony.
2004.23 Service of subpoenas or requests.
2004.24 Processing demands or requests.
2004.25 Final determination.

2004.26 Restrictions that apply to testimony.
2004.27 Restrictions that apply to released records.
2004.28 Procedure in the event of an adverse ruling.
2004.29 Fees.

Authority: Inspector General Act of 1978, as amended (5 U.S.C. app.) and 42 U.S.C. 3535(d).

Subpart A—General Requirements

§ 2004.1 Scope and purpose.

(a) This part sets forth the policy for service of a subpoena issued by the Office of Inspector General (OIG), and policies and procedures that you must follow when you submit a demand or request to an employee of the OIG to produce official records and information, or provide testimony relating to official information, in connection with a legal proceeding. You must comply with these requirements when you request the release or disclosure of official records and information.

(b) The OIG intends these provisions to:

(1) Promote economy and efficiency in its programs and operations;

(2) Minimize the possibility of involving OIG in controversial issues not related to OIG's functions;

(3) Maintain OIG's impartiality among private litigants where OIG is not a named party; and

(4) Protect sensitive, confidential information and the deliberative processes of OIG.

(c) In providing for these requirements, OIG does not waive the sovereign immunity of the United States.

(d) This part provides guidance for the internal operations of OIG. This part does not create any right or benefit, substantive or procedural, that a party may rely upon in any legal proceeding against the United States.

§ 2004.2 Applicability.

This subpart applies to demands and requests to employees for factual or expert testimony relating to official information, or for production of official records or information, in legal proceedings in which HUD or OIG is not a named party. However, this subpart does not apply to:

(a) Demands upon or requests for an OIG employee to testify as to facts or events that are unrelated to his or her official duties or that are unrelated to the functions of OIG;

(b) Requests for the release of records under the Freedom of Information Act, 5 U.S.C. 552, or the Privacy Act, 5 U.S.C. 552a; and

(c) Congressional demands and Congressional requests for testimony or records.

§ 2004.3 Definitions.

Counsel means the Counsel to the Inspector General.

Demand means a subpoena, or an order or other command of a court or other competent authority, for the production, disclosure, or release of records or for the appearance and testimony of an OIG employee that is issued in a legal proceeding.

Legal proceeding means any matter before a court of law, administrative board or tribunal, commission, administrative law judge, hearing officer, or other body that conducts a legal or administrative proceeding. Legal proceeding includes all phases of litigation.

OIG means the Office of Inspector General, U.S. Department of Housing and Urban Development.

OIG employee or *employee means:*

(1) Any current or former officer or employee of OIG;

(2) Any other individual hired through contractual agreement by or on behalf of OIG or who has performed or is performing services under such an agreement for OIG; and

(3) Any individual who served or is serving in any consulting or advisory capacity to OIG, whether formal or informal.

Records or official records or information means:

(1) All documents and materials that are OIG agency records under the Freedom of Information Act, 5 U.S.C. 552;

(2) All other documents and materials contained in OIG files; and

(3) All other information or materials acquired by an OIG employee in the performance of his or her official duties or because of his or her official status.

Request means any informal request, by whatever method, for the production of records and information or for testimony that has not been ordered by a court or other competent authority.

Testimony means any written or oral statements, including depositions, answers to interrogatories, affidavits, declarations, recorded interviews, and statements made by an individual in connection with a legal proceeding.

Subpart B—Office of Inspector General Subpoenas

§ 2004.10 Service of an Office of Inspector General subpoena.

Service of a subpoena issued by OIG may be accomplished as follows:

(a) *Personal service.* Service may be made by delivering the subpoena to the person to whom it is addressed. If the subpoena is addressed to a corporation or other business entity, it may be served upon an employee of the corporation or entity. Service made to an employee, agent, or legal representative of the addressee shall constitute service upon the addressee.

(b) *Service by mail.* Service may also be made by mailing the subpoena, certified mail—return receipt requested, to the addressee at his or her last known business or personal address.

Subpart C—Requests for Testimony and Production of Documents

§ 2004.20 General prohibition.

No employee may produce official records and information or provide any testimony relating to official information in response to a demand or request without the prior, written approval of the Inspector General or the Counsel.

§ 2004.21 Factors OIG will consider.

The Counsel or Inspector General, in their discretion, may grant an employee permission to testify on matters relating to official information, or produce official records and information, in response to a demand or request. Among the relevant factors that the Inspector General or the Counsel may consider in making this decision are whether:

(a) The purposes of this part are met;

(b) OIG has an interest in the decision that may be rendered in the legal proceeding;

(c) Allowing such testimony or production of records would assist or hinder OIG in performing its statutory duties or use OIG resources where responding to the request will interfere with the ability of OIG employees to do their work;

(d) The records or testimony can be obtained from other sources;

(e) The demand or request is unduly burdensome or otherwise inappropriate under the applicable rules of discovery or the rules of procedure governing the case or matter in which the demand or request arose;

(f) Disclosure would violate or be inconsistent with a statute, Executive Order, or regulation;

(g) Disclosure would reveal confidential or privileged information, trade secrets, or similar, confidential commercial, or financial information;

(h) Disclosure would impede or interfere with an ongoing law enforcement investigation or proceedings, or compromise constitutional rights;

(i) Disclosure would result in OIG appearing to favor one litigant over another;

(j) Disclosure relates to documents that were produced by another agency;

(k) The demand or request is in conformance with all other applicable rules;

(l) The demand or request is sufficiently specific to be answered; and

(m) For any other good cause.

§ 2004.22 Filing requirements for demands or requests for documents or testimony.

You must comply with the following requirements whenever you issue demands or requests to an OIG employee for official records and information or testimony.

(a) Your request must be in writing and must be submitted to the Counsel. If you serve a subpoena on OIG or on an OIG employee before submitting a written request and receiving a final determination from the Counsel, OIG will oppose the subpoena on grounds that your request was not submitted in accordance with this subpart.

(b) Your written request must contain the following information:

(1) The caption of the legal proceeding, docket number, and name and address of the court or other authority involved;

(2) A copy of the complaint or equivalent document setting forth the assertions in the case and any other pleading or document sufficient to show relevance;

(3) A list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony or records sought;

(4) A statement as to how the need for the information outweighs the need to maintain any confidentiality of the information and outweighs the burden on OIG to produce the records or provide testimony;

(5) A statement indicating that the information sought is not available from another source, from other persons or entities, or from the testimony of someone other than an OIG employee, such as a retained expert;

(6) If testimony is requested, the intended use of the testimony, a general summary of the desired testimony, and a showing that no document could be provided and used in lieu of testimony;

(7) A description of all prior decisions, orders, or pending motions in the case that bear upon the relevance of the requested records or testimony;

(8) The name, address, and telephone number of counsel to each party in the case; and

(9) An estimate of the amount of time that the requester and other parties will require with each OIG employee for time spent by the employee to prepare for testimony, in travel, and for attendance in the legal proceeding.

(c) The OIG reserves the right to require additional information to complete your request where appropriate.

(d) Your request should be submitted at least 30 days before the date that records or testimony are required. Requests submitted less than 30 days before records or testimony are required must be accompanied by a written explanation stating the reasons for the late request and the reasons for expedited processing.

(e) Failure to cooperate in good faith to enable the Counsel to make an informed decision may serve as the basis for a determination not to comply with your request.

§ 2004.23 Service of subpoenas or requests.

Subpoenas or requests for official records or information or testimony must be served on the Counsel to the Inspector General, Office of Inspector General, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 8260, Washington, DC 20410–4500.

§ 2004.24 Processing demands or requests.

(a) After service of a demand or request to testify, the Counsel will review the demand or request and, in accordance with the provisions of this subpart, determine whether, or under what conditions, to authorize the employee to testify on matters relating to official information and/or to produce official records and information.

(b) The OIG will process requests in the order in which they are received. Absent exigent or unusual circumstances, OIG will respond within 30 days from the date that we receive all information necessary to the evaluation of the demand or request. The time for response will depend upon the scope of the request.

(c) The Counsel may grant a waiver of any procedure described in this subpart where a waiver is considered necessary to promote a significant interest of OIG, HUD, and the United States, or for other good cause.

§ 2004.25 Final determination.

The Counsel makes the final determination on demands and requests to employees for production of official records and information or testimony. All final determinations are within the sole discretion of the Counsel. The Counsel will notify the requester of the final determination, the reasons for the grant or denial of the demand or request, and any conditions that the Counsel may impose on the release of records or information, or on the testimony of an OIG employee.

§ 2004.26 Restrictions that apply to testimony.

(a) The Counsel may impose conditions or restrictions on the testimony of OIG employees including, for example, limiting the areas of testimony or requiring the requester and other parties to the legal proceeding to agree that the transcript of the testimony will be kept under seal or will only be used or made available in the particular legal proceeding for which testimony was requested. The Counsel may also require a copy of the transcript of testimony at the requester's expense.

(b) The OIG may offer the employee's written declaration in lieu of testimony.

(c) If authorized to testify pursuant to this part, an employee may testify as to facts within his or her personal knowledge, but, unless specifically authorized to do so by the Counsel, the employee shall not:

(1) Disclose confidential or privileged information;

(2) Testify as to facts when the Counsel determines such testimony would not be in the best interest of OIG, HUD and the United States; or

(3) Testify as an expert or opinion witness with regard to any matter arising out of the employee's official duties or the functions of OIG. This provision does not apply to requests from the United States for expert or opinion testimony.

§ 2004.27 Restrictions that apply to released records.

(a) The Counsel may impose conditions or restrictions on the release of official records and information, including the requirement that parties to the proceeding obtain a protective order or execute a confidentiality agreement to limit access and any further disclosure. The terms of the protective order or of a confidentiality agreement must be acceptable to the Counsel. In cases where protective orders or confidentiality agreements have already been executed, OIG may condition the release of official records and information on an amendment to the existing protective order or confidentiality agreement.

(b) If the Counsel so determines, original OIG records may be presented for examination in response to a demand or request, but they are not to

be presented as evidence or otherwise used in a manner by which they could lose their identity as official OIG records, nor are they to be marked or altered. In lieu of the original records, certified copies will be presented for evidentiary purposes.

§ 2004.28 Procedure in the event of an adverse ruling.

If the Counsel declines to approve a demand for records or testimony and the court or other authority rules that the demand must be complied with irrespective of the instructions from the OIG not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand, citing *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462.

§ 2004.29 Fees.

(a) *Generally.* The Counsel may condition the production of records or appearance for testimony upon advance payment of a reasonable estimate of the costs to OIG.

(b) *Fees for records.* Fees for producing records will include fees for searching, reviewing, and duplicating records, costs of attorney time spent in reviewing the demand or request, and expenses generated by materials and equipment used to search for, produce, and copy the responsive information. Costs for employee time will be calculated on the basis of the hourly pay of the employee (including all pay, allowance, and benefits). Fees for duplication will be the same as those charged by OIG in its Freedom of Information Act Regulations at 24 CFR part 2002.

(c) *Witness fees.* Fees for attendance by a witness will include fees, expenses, and allowances prescribed by the court's rules. If no such fees are prescribed, witness fees will be determined based upon the rule of the federal district court closest to the location where the witness will appear. Such fees will include cost of time spent by the witness to prepare for testimony, in travel, and for attendance in the legal proceeding.

(d) *Payment of fees.* You must pay any applicable witness fees for current OIG employees and any records certification fees by submitting to the Counsel a check or money order for the appropriate amount made payable to the Treasury of the United States. In the case of testimony by former OIG employees, you must pay applicable fees directly to the former employee in accordance with applicable statutes.

(e) *Waiver or reduction of fees.* The Counsel, in his or her sole discretion, may, upon a showing of reasonable cause, waive or reduce any fees in connection with the testimony or production of records. Additionally, fees will not be assessed if the total charge would be $10.00 or less.

Dated: January 9, 2003.

Kenneth M. Donohue, Sr.,

Inspector General.

[FR Doc. 03–1409 Filed 1–22–03; 8:45 am]

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Thursday, January 23, 2003

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