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Presidential Documents

Title 3—

The President

Proclamation 7665 of April 18, 2003

National Park Week, 2003

By the President of the United States of America

A Proclamation

America is a land of majestic beauty, and we are blessed with immeasurable natural wealth. Americans are united in the belief that we must preserve this treasured heritage and conserve these natural resources for the benefit and enjoyment of the American people.

As a Nation, we can be proud of our diverse parklands, ranging from the rugged wilderness of snow-capped mountains, thick forests, sweeping desert sands, and remote canyons to national symbols such as the Statue of Liberty and the Lincoln Memorial. Our National Park Service has a long and important history. In 1864, the Federal Government ensured a grand natural landscape for generations to come when it designated Yosemite Valley and the Mariposa Grove of giant sequoias to be ''held for public use, resort, and recreation . . . inalienable for all time.'' Eight years later in 1872, the Congress created the first national park in the Yellowstone region of the Territories of Montana and Wyoming. Finally, in 1916, the National Park Service was established to efficiently administer our growing number of parks, which today includes 388 national parks on more than 84 million acres of public lands. These lands continue to be cherished by all our citizens.

The full and safe enjoyment of our national parks depends on dedicated National Park Service employees and thousands of people who volunteer their time to conserve these sites. This year's theme for National Park Week, ''Celebrating Volunteers,'' recognizes their valuable contributions to conserving and maintaining our natural, cultural, and historical heritage.

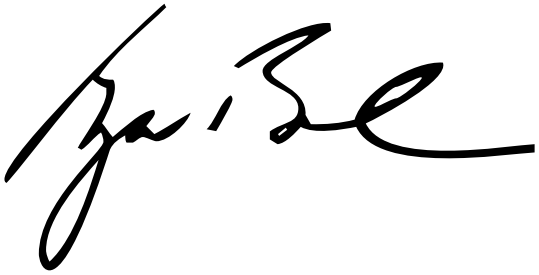
Across the country, my Administration is promoting volunteer service, encouraging public-private partnerships, and advocating community-based interest in our national parks. We are committed to ensuring that our land is conserved, our air is clean, our water is pure, and our parks are open and accessible to all Americans. Recently, my Administration re-launched Take Pride in America, a national partnership that engages volunteers from every corner of America to enhance our parks and other public lands. As part of the USA Freedom Corps initiative, Take Pride in America will encourage more Americans to take part in volunteer service opportunities available on public lands.

My Administration has also supported improvements in park management and is working to reduce the park maintenance backlog. My fiscal year 2004 budget includes over $1 billion to reduce the maintenance backlog, an increase of $180 million over last year's request, along with $76 million, a $9 million increase over last year's request, for the National Park Service Natural Resource Challenge to monitor ''vital signs'' of conditions in our parks. This initiative will help conserve native species and habitats, maintain our natural resources, eradicate invasive species, and provide the public with information about resources in our parks. In addition, my Administration has developed the website www.recreation.gov, which is a user-friendly way to obtain information about recreational opportunities in the national parks and other public recreation sites.

As we observe National Park Week, I encourage all citizens to explore our national parks and to commit to the conservation and stewardship of these timeless treasures. By working together, we can ensure that these special places thrive for generations to come.

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 April 21 through April 27, 2003, as National Park Week. I call upon the people of the United States to join me in recognizing the importance of our national parks and to learn more about these areas of beauty, their historical significance, and the many ways citizens can volunteer to help preserve these precious resources.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of April, 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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Billing code 3195–01–P

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Presidential Documents

Title 3—

The President

Executive Order 13296 of April 18, 2003

Amendments to Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to extend the Task Force on Environmental Health Risks and Safety Risks to Children, and for other purposes, it is hereby ordered that Executive Order 13045 of April 21, 1997, as amended, is further amended as follows:

Section 1. Subsection 3–303(o) is amended by striking ''Assistant to the President and''.

Sec. 2. Section 3–305 is amended by:

(a) striking ''cabinet agencies and other agencies identified'' and inserting in lieu thereof ''executive departments, the Environmental Protection Agency, and other agencies identified''; and

(b) inserting the following new language after the second sentence: ''Each report shall also detail the accomplishments of the Task Force from the date of the preceding report.''

Sec. 3. Section 3–306 is amended by:

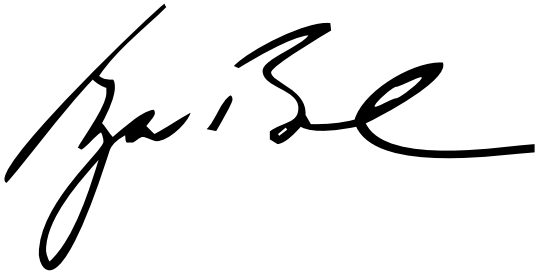
(a) striking ''6 years'' and inserting in lieu thereof ''8 years''; and

(b) striking the second sentence.

Sec. 4. Section 6–601, the second sentence, is amended by deleting ''an annual'' and inserting ''a biennial'' in lieu thereof.

Sec. 5. Section 6–603, the third sentence, is amended by deleting ''submitted annually'' and inserting ''published biennially'' in lieu thereof.

Sec. 6. Section 7 is amended by adding new section 7–703 as follows: ''7–703. Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.''



THE WHITE HOUSE,
April 18, 2003.

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Rules and Regulations

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM246; Special Conditions No. 25–231–SC]

Special Conditions: Embraer Model 170–100 and 170–200 Airplanes; Sudden Engine Stoppage; Operation Without Normal Electrical Power; Interaction of Systems and Structures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Embraer Model 170–100 and 170–200 airplanes. These airplanes will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These design features are associated with engine size and torque load which affect sudden engine stoppage, electrical and electronic flight control systems which perform critical functions, and systems which affect the structural performance of the airplane. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of the Embraer Model 170–100 and 170–200 airplanes.

EFFECTIVE DATE: April 10, 2003.

FOR FURTHER INFORMATION CONTACT: Tom Groves, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–1503; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

On May 20, 1999, Embraer applied for a type certificate for its new Model 170 airplane. Two basic versions of the Model 170 are included in the application. The Model 170–100 airplane is a 69–78 passenger twin-engine regional jet with a maximum takeoff weight of 81,240 pounds. The Model 170–200 is a lengthened fuselage derivative of the 170–100. Passenger capacity for the Model 170–200 is increased to 86, and maximum takeoff weight is increased to 85,960 pounds.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Embraer must show that the Model 170–100 and 170–200 airplanes meet the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–98.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety standards for the Embraer Model 170–100 and 170–200 airplanes because of novel or unusual design features, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Embraer Model 170–100 and 170–200 airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy pursuant to § 611 of Public Law 93–574, the ''Noise Control Act of 1972.''

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.17(a)(2), Amendment 21–69, effective September 16, 1991.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design features, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1), Amendment 21–69, effective September 16, 1991.

Novel or Unusual Design Features

The Embraer Model 170–100 and 170–200 airplanes will incorporate the following novel or unusual design features:

Engine Size and Torque Load

Since 1957, the limit engine torque load which is posed by sudden engine stoppage due to malfunction or structural failure'such as compressor jamming'has been a specific requirement for transport category airplanes. Design torque loads associated with typical failure scenarios were estimated by the engine manufacturer and provided to the airframe manufacturer as limit loads. These limit loads were considered simple, pure torque static loads. However, the size, configuration, and failure modes of jet engines have changed considerably from those envisioned when the engine seizure requirement of § 25.361(b) was first adopted. Current engines are much larger and are now designed with large bypass fans capable of producing much larger torque, if they become jammed.

Relative to the engine configurations that existed when the rule was developed in 1957, the present generation of engines is sufficiently different and novel to justify issuance of special conditions to establish appropriate design standards. The latest generation of jet engines is capable of producing, during failure, transient loads that are significantly higher and more complex than the generation of engines that were present when the existing standard was developed. Therefore, the FAA has determined that special conditions are needed for the Embraer Model 170–100 and 170–200 airplanes.

Electrical and Electronic Systems Which Perform Critical Functions

The Embraer Model 170–100 and 170–200 airplanes will have an electronic flight control system which performs critical functions. The current airworthiness standards of part 25 do not contain adequate or appropriate standards for the protection of this

system from the adverse effects of operations without normal electrical power. Accordingly, this system is considered to be a novel or unusual design feature. Since the loss of normal electrical power may be catastrophic to the airplane, special conditions are proposed to retain the level of safety envisioned by 14 CFR 25.1351(d).

Interactions of Systems and Structures

The Embraer Model 170–100 and 170–200 airplanes will have systems that affect the structural performance of the airplane, either directly or as a result of a failure or malfunction. These novel or unusual design features are systems that can alleviate loads in the airframe and, when in a failure state, can create loads in the airframe. The current regulations do not adequately account for the effects of these systems and their failures on structural performance.

Discussion

Engine Size and Torque Loads

In order to maintain the level of safety envisioned in 14 CFR 25.361(b), a more comprehensive criterion is needed for the new generation of high bypass engines. These special conditions would distinguish between the more common seizure events and those rarer seizure events resulting from structural failures. For the rare but severe seizure events, the specified criteria allow some deformation in the engine supporting structure (ultimate load design) in order to absorb the higher energy associated with the high bypass engines, while at the same time protecting the adjacent primary structure in the wing and fuselage by providing a higher safety factor. The criteria for the more severe events would no longer be a pure static torque load condition, but would account for the full spectrum of transient dynamic loads developed from the engine failure condition.

Electrical and Electronic Systems Which Perform Critical Functions

The Embraer Model 170–100 and 170–200 airplanes will require a continuous source of electrical power for the electronic flight control systems. Section 25.1351(d), ''Operation without normal electrical power,'' requires safe operation in visual flight rule (VFR) conditions for a period of not less than five minutes with inoperative normal power. This rule was structured around a traditional design utilizing mechanical connections between the flight control surfaces and the pilot controls. Such traditional designs enable the flightcrew to maintain control of the airplane while taking the time to sort out the electrical failure, start engines if necessary, and re-establish some of the electrical power generation capability.

The Embraer Model 170–100 and 170–200 airplanes will utilize an electronic flight control system for the pitch and yaw control (elevator, stabilizer, and rudder). There is no mechanical linkage between the pilot controls and these flight control surfaces. Pilot control inputs are converted to electrical signals, which are processed and then transmitted via wires to the control surface actuators. At the control surface actuators, the electrical signals are converted to an actuator command, which moves the control surface.

In order to maintain the same level of safety as an airplane with conventional flight controls, an airplane with electronic flight controls, such as the Embraer Model 170, must not be time limited in its operation, including being without the normal source of electrical power generated by the engine or the Auxiliary Power Unit (APU) generators.

Service experience has shown that the loss of all electrical power generated by the airplane's engine generators or APU is not extremely improbable. Thus, it must be demonstrated that the airplane can continue safe flight and landing (including steering and braking on ground) after total loss of the normal electrical power with only the use of its emergency electrical power systems. These emergency electrical power systems must be able to power loads that are essential for continued safe flight and landing. The emergency electrical power system must be designed to supply electrical power for the following:

- Immediate safety, without the need for crew action, following the loss of the normal engine generator electrical power system (which includes APU power), and
- Continued safe flight and landing, and
- Restarting the engines.

For compliance purposes, a test of the loss of normal engine generator power must be conducted to demonstrate that when the failure condition occurs during night Instrument Meteorological Conditions (IMC), at the most critical phase of the flight relative to the electrical power system design and distribution of equipment loads on the system, the following conditions are met:

1. After the unrestorable loss of normal engine and APU generator power, the airplane engine restart capability must be provided and operations continued in IMC.

2. The airplane is demonstrated to be capable of continued safe flight and landing. The length of time must be computed based on the maximum diversion time capability for which the airplane is being certified. Consideration for speed reductions resulting from the associated failure must be made.

3. The availability of APU operation should not be considered in establishing emergency power system adequacy.

Interaction of Systems and Structure

The Embraer Model 170 has systems that affect the structural performance of the airplane. These systems can serve to alleviate loads in the airframe and, when in a failure state, can create loads in the airframe. This degree of system and structures interaction was not envisioned in the structural design regulations of 14 CFR part 25. These special conditions provide comprehensive structural design safety margins as a function of systems reliability.

Discussion of Comments

Notice of proposed special conditions No. NM246 for the Embraer Model 170–100 and 170–200 airplanes was published in the **Federal Register** dated February 3, 2003 (68 FR 5241). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Embraer Model 170–100 and 170–200 airplanes. Should Embraer apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1), Amendment 21–69, effective September 16, 1991.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Embraer Model 170–100 and –200 is imminent, the FAA finds good cause to make these special conditions effective upon issuance.

Conclusion

This action affects only certain novel or unusual design features on the Embraer Model 170–100 and 170–200 airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for 14 CFR part 25, for these special conditions, is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Embraer Model 170–100 and 170–200 airplanes.

Sudden Engine Stoppage. In lieu of compliance with 14 CFR 25.361(b), the following special conditions apply:

1. For turbine engine installations: The engine mounts, pylons and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposed by each of the following:

a. Sudden engine deceleration due to a malfunction which could result in a temporary loss of power or thrust.

b. The maximum acceleration of the engine.

2. For auxiliary power unit installations: The power unit mounts and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposed by the each of the following:

a. Sudden auxiliary power unit deceleration due to malfunction or structural failure.

b.The maximum acceleration of the auxiliary power unit.

3. For an engine supporting structure: An ultimate loading condition must be considered that combines 1g flight loads with the transient dynamic loads resulting from each of the following:

a. The loss of any fan, compressor, or turbine blade.

b. Where applicable to a specific engine design, and separately from the conditions specified in paragraph 3.a., any other engine structural failure that results in higher loads.

4. The ultimate loads developed from the conditions specified in paragraphs 3.a. and 3.b. above must be multiplied by a factor of 1.0 when applied to engine mounts and pylons and multiplied by a factor of 1.25 when applied to adjacent supporting airframe structure.

Operation Without Normal Electrical Power. In lieu of compliance with 14 CFR 25.1351(d), the following special conditions apply:

It must be demonstrated by test or by a combination of test and analysis, that the airplane can continue safe flight and landing with inoperative normal engine and APU generator electrical power (in other words, without electrical power from any source, except for the battery and any other standby electrical sources). The airplane operation should be considered at the critical phase of flight and include the ability to restart the engines and maintain flight for the maximum diversion time capability being certified.

Interaction of Systems and Structures: In lieu of compliance with 14 CFR 25.1351(d), the following special conditions apply:

1. *General:* For airplanes equipped with systems that affect structural performance, either directly or as a result of a failure or malfunction, the influence of these systems and their failure conditions must be taken into account when showing compliance with the requirements of 14 CFR part 25, subparts C and D. The following criteria must be used for showing compliance with these special conditions for airplanes equipped with flight control systems, autopilots, stability augmentation systems, load alleviation systems, flutter control systems, and fuel management systems. If these special conditions are used for other systems, it may be necessary to adapt the criteria to the specific system.

a. The criteria defined herein address only the direct structural consequences of the system responses and performances and cannot be considered in isolation but should be included in the overall safety evaluation of the airplane. These criteria may in some instances duplicate standards already established for this evaluation. These criteria are only applicable to structures whose failure could prevent continued safe flight and landing. Specific criteria that define acceptable limits on handling characteristics or stability requirements when operating in the system degraded or inoperative modes are not provided in these special conditions.

b. Depending upon the specific characteristics of the airplane, additional studies that go beyond the criteria provided in these special conditions may be required in order to demonstrate the capability of the airplane to meet other realistic conditions, such as alternative gust or maneuver descriptions, for an airplane equipped with a load alleviation system.

c. The following definitions are applicable to these special conditions.

Structural performance: Capability of the airplane to meet the structural requirements of 14 CFR part 25.

Flight limitations: Limitations that can be applied to the airplane flight conditions following an in-flight occurrence and that are included in the flight manual (*e.g.*, speed limitations, avoidance of severe weather conditions, etc.).

Operational limitations: Limitations, including flight limitations that can be applied to the airplane operating conditions before dispatch (*e.g.*, fuel, payload, and Master Minimum Equipment List limitations).

Probabilistic terms: The probabilistic terms (probable, improbable, extremely improbable) used in these special conditions are the same as those used in § 25.1309.

Failure condition: The term failure condition is the same as that used in § 25.1309; however, these special conditions apply only to system failure conditions that affect the structural performance of the airplane (*e.g.*, system failure conditions that induce loads, lower flutter margins, or change the response of the airplane to inputs such as gusts or pilot actions).

2. *Effects of Systems on Structures.* The following criteria will be used in determining the influence of a system and its failure conditions on the airplane structure.

a. System fully operative. With the system fully operative, the following apply:

(1) Limit loads must be derived in all normal operating configurations of the system from all the limit conditions specified in subpart C, taking into account any special behavior of such a system or associated functions, or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds, or any other system nonlinearities) must be accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

(2) The airplane must meet the strength requirements of part 25 (static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of nonlinearities must be investigated beyond limit conditions to ensure the behavior of the system presents no anomaly compared to the behavior below limit conditions.

However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that will not allow it to exceed those limit conditions.

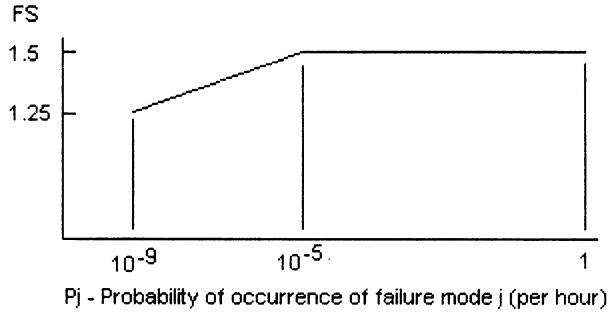
(3) The airplane must meet the aeroelastic stability requirements of § 25.629.

b. System in the failure condition. For any system failure condition not shown to be extremely improbable, the following apply:

(1) At the time of occurrence. Starting from 1-g level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure.

(i) For static strength substantiation, these loads multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure are ultimate loads to be considered for design. The factor of safety (FS) is defined in Figure 1.

Figure 1
Factor of safety at the time of occurrence



(ii) For residual strength substantiation, the airplane must be able to withstand two-thirds of the ultimate loads defined in paragraph 2.(b)(1)(i) above.

(iii) Freedom from aeroelastic instability must be shown up to the speeds defined in § 25.629(b)(2). For failure conditions that result in speed increases beyond Vc/Mc, freedom from aeroelastic instability must be shown to increased speeds, so that the margins intended by § 25.629(b)(2) are maintained.

(iv) Failures of the system that result in forced structural vibrations (oscillatory failures) must not produce loads that could result in detrimental deformation of primary structure.

(2) For the continuation of the flight. For the airplane in the system failed state and considering any appropriate reconfiguration and flight limitations, the following apply:

(i) The loads derived from the following conditions at speeds up to Vc, or the speed limitation prescribed for the remainder of the flight, must be determined:

(A) The limit symmetrical maneuvering conditions specified in §§ 25.331 and 25.345.

(B) The limit gust and turbulence conditions specified in §§ 25.341 and 25.345.

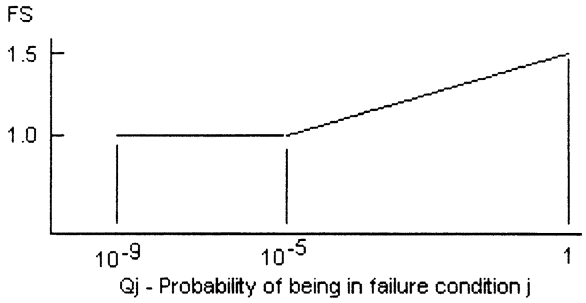
(C) The limit rolling conditions specified in § 25.349, and the limit unsymmetrical conditions specified in § 25.367 and § 25.427(b) and (c).

(D) The limit yaw maneuvering conditions specified in § 25.351.

(E) The limit ground loading conditions specified in §§ 25.473 and 25.491.

(ii) For static strength substantiation, each part of the structure must be able to withstand the loads defined in paragraph 2.(b)(2)(i) above, multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety is defined in Figure 2.

Figure 2
Factor of safety for continuation of flight



$Q_j = (T_j)(P_j)$ where:

T_j = Average time spent in failure condition j (in hours).

P_j = Probability of occurrence of failure mode j (per hour).

Note: If P_j is greater than 10^{-3} per flight hour, then a 1.5 factor of safety must be

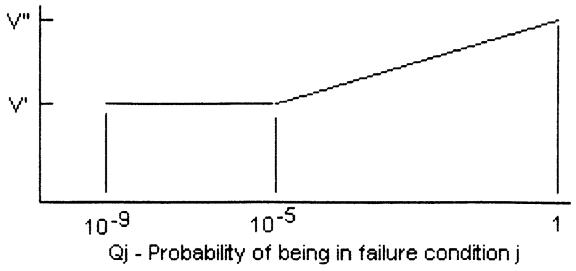
applied to all limit load conditions specified in subpart C.

(iii) For residual strength substantiation, the airplane must be able to withstand two thirds of the ultimate loads defined in paragraph 2.(b)(2)(ii) above.

(iv) If the loads induced by the failure condition have a significant effect on fatigue or damage tolerance, then their effects must be taken into account.

(v) Freedom from aeroelastic instability must be shown up to a speed determined from Figure 3. Flutter clearance speeds VI and VII may be based on the speed limitation specified for the remainder of the flight using the margins defined by § 25.629(b).

Figure 3
Clearance speed



VI = Clearance speed as defined by § 25.629(b)(2).
VII = Clearance speed as defined by § 25.629(b)(1).
$Q_j = (T_j)(P_j)$ where:
T_j = Average time spent in failure condition j (in hours).
P_j = Probability of occurrence of failure mode j (per hour).

Note: If P_j is greater than 10^{-3} per flight hour, then the flutter clearance speed must not be less than VII.

(vi) Freedom from aeroelastic instability must also be shown up to VI in Figure 3 above for any probable system failure condition combined with any damage required or selected for investigation by § 25.571(b).

(3) Consideration of certain failure conditions may be required by other sections of 14 CFR part 25, regardless of calculated system reliability. Where analysis shows the probability of these failure conditions to be less than 10^{-9}, criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

c. Warning considerations. For system failure detection and warning, the following apply:

(1) The system must be checked for failure conditions, not extremely improbable, that degrade the structural capability below the level required by 14 CFR part 25, or significantly reduce the reliability of the remaining system. The flightcrew must be made aware of these failures before flight. Certain elements of the control system, such as mechanical and hydraulic components, may use special periodic inspections, and electronic components may use daily checks, in lieu of warning systems, to achieve the objective of this requirement. These certification maintenance requirements must be limited to components that are not readily detectable by normal warning systems and where service history shows that inspections will provide an adequate level of safety.

(2) The existence of any failure condition, not extremely improbable, during flight that could significantly affect the structural capability of the airplane, and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the flightcrew. For example, failure conditions that result in a factor of safety between the airplane strength and the loads of 14 CFR part 25, subpart C below 1.25, or flutter margins below VII, must be signaled to the crew during flight.

d. Dispatch with known failure conditions. If the airplane is to be dispatched in a known system failure condition that affects structural performance, or affects the reliability of the remaining system to maintain structural performance, then the provisions of these special conditions must be met for the dispatched condition and for subsequent failures. Flight limitations and expected operational limitations may be taken into account in establishing Qj as the combined probability of being in the dispatched failure condition and the subsequent failure condition for the safety margins in Figures 2 and 3. These limitations must be such that the probability of being in this combined failure state and then subsequently encountering limit load conditions is extremely improbable. No reduction in these safety margins is allowed if the subsequent system failure rate is greater than 10^{-3} per hour.

Issued in Renton, Washington, on April 10, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–10044 Filed 4–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–15–AD; Amendment 39–13124; AD 2003–08–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, –200B, –200F, –200C, –100B, –300, –100B SUD, –400, –400D, and –400F Series Airplanes; and Model 747SR Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing Model 747–100, –200B, –200F, –200C, –100B, –300, –100B SUD, –400, –400D, and –400F series airplanes; and Model 747SR

series airplanes. This action requires repetitive inspections to detect discrepancies of the actuator attach fittings of the inboard and outboard flaps, and follow-on and corrective actions as necessary. This action is necessary to detect and correct cracking and other damage of the actuator attach fittings of the trailing edge flaps, which could result in abnormal operation or retraction of a trailing edge flap, and possible loss of controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective May 8, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 8, 2003.

Comments for inclusion in the Rules Docket must be received on or before June 23, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–15–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2003–NM–15–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gary Oltman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6443; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: The FAA has received reports of three fractures of the attach fittings of the trailing edge flap actuator on Boeing Model 747 series airplanes. The fractures have been attributed to corrosion and/or cracking. In one case, the fracture caused the flap to jam and resulted in an air turnback. In another case, the fractures occurred in the area of the upper journal. If not corrected, corroded or cracked attach fittings could fracture and result in abnormal operation or retraction of a trailing edge flap, and possible loss of controllability of the airplane.

Related Rulemaking

On June 20, 2001, the FAA issued related AD 2001–13–12, amendment 39–12292 (66 FR 34526, June 29, 2001), which applies to certain Boeing Model 747 series airplanes. That AD:

- Requires repetitive inspections to detect cracks and corrosion around the lower bearing of the actuator attach fittings of the inboard and outboard flaps;
- Requires repetitive overhauls for certain actuator attach fittings or repetitive replacement of the fittings with new fittings, as applicable, which terminates the repetitive inspections; and
- Provides for replacement of actuator attach fittings with improved fittings, which terminates all requirements of the AD.

The three incidents previously discussed occurred since AD 2001–13–12 was issued. Those incidents occurred on airplanes that had been inspected in accordance with AD 2001–13–12. Consequently, the FAA has determined that the terminating action in AD 2001–13–12 (replacement with improved fittings) will not adequately address the unsafe condition. However, the service information cited in this new AD has been approved as an alternative method of compliance (AMOC) with the requirements of paragraphs (a) through (e) of AD 2001–13–12. The FAA may consider superseding that AD to incorporate the requirements of this AD as well as other requirements.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–57A2316, dated December 19, 2002, which describes procedures for, among other things, repetitive inspections of the attach fittings of the inboard and outboard flaps to detect discrepancies. The inboard fittings are to be inspected using borescopic and detailed visual methods; and the outboard fittings are to be inspected using borescopic, detailed visual, and ultrasonic methods. Discrepancies include surface corrosion, pitting, damaged cadmium plating, and cracking. Corrective/follow-on actions may include repetitive detailed visual inspections to detect bushing migration and cracking and other damage of the actuator attach fittings; repetitive application of corrosion-inhibiting compound; and replacement of the fittings with new or overhauled fittings, which terminates the repetitive inspections. The manufacturer advises that Boeing Service Bulletin 747–57A2316 replaces Boeing Service Bulletin 747–57A2310, which was cited as the appropriate source of service information for the requirements of AD 2001–13–12. Although Service Bulletin 747–57A2316 replaces Service Bulletin 747–57A2310, AD 2001–13–12 is still in effect. As stated previously, Service Bulletin 747–57A2316 has been approved as an AMOC for the requirements of paragraphs (a) through (e) of AD 2001–13–12.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to detect and correct cracking and other damage of the actuator attach fittings of the trailing edge flaps, which could result in abnormal operation or retraction of a trailing edge flap, and possible loss of controllability of the airplane. This AD requires accomplishment of certain actions specified in Boeing Alert Service Bulletin 747–57A2316, described previously.

Interim Action

This is considered to be interim action. Although Boeing Alert Service Bulletin 747–57A2316 specifies actions in addition to those required by this AD, only certain actions specified in the service bulletin are required by this AD. The FAA may consider issuing further rulemaking to require repetitive replacement of the fittings with new or overhauled fittings. However, because of the urgency of the identified unsafe condition, the FAA finds it necessary to issue this AD immediately without prior public comment. The planned compliance times for the additional actions would be long enough to practicably provide notice and opportunity for public comment.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2003–NM–15–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from 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 the following new airworthiness directive:

2003–08–11 Boeing: Amendment 39–13124. Docket 2003–NM–15–AD.

Applicability: All Model 747–100, –200B, –200F, –200C, –100B, –300, –100B SUD, –400, –400D, and –400F series airplanes; and all Model 747SR series airplanes; certificated in any category.

Note 1: This AD applies to each airplane 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 airplanes 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 (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking and other damage of the actuator attach fittings of the trailing edge flaps, which could result in abnormal operation or retraction of a trailing edge flap, and possible loss of controllability of the airplane, accomplish the following:

Inspection: Inboard Flap Attach Fittings

(a) Perform borescopic and detailed inspections to detect discrepancies of the inboard flap attach fittings, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2316, dated December 19, 2002. Discrepancies include corrosion, pitting, and damaged or missing cadmium plating. Do the inspection at the applicable time specified in paragraph (a)(1) or (a)(2) of this AD.

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) If the age of the fittings can be determined: Inspect within 14 years since the fittings were new or last overhauled, or within 90 days after the effective date of this AD, whichever occurs later.

(2) If the age of the fittings cannot be determined: Inspect within 90 days after the effective date of this AD.

Note 3: The exceptions specified in flag note 4 of Figure 1 of Boeing Alert Service Bulletin 747–57A2316, dated December 19, 2002, apply to the requirements of paragraphs (a) and (b) of this AD.

Inspection: Outboard Flap Attach Fittings

(b) Perform borescopic, detailed, and ultrasonic inspections to detect discrepancies of the outboard flap attach fittings, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2316, dated December 19, 2002. Discrepancies include surface corrosion, pitting, damaged or missing cadmium plating, and cracks. Do the inspection at the applicable time specified in paragraph (b)(1) or (b)(2) of this AD.

(1) If the age of the fittings can be determined: Inspect within 8 years since the fittings were new or last overhauled, or within 90 days after the effective date of this AD, whichever occurs later.

(2) If the age of the fittings cannot be determined: Inspect within 90 days after the effective date of this AD.

Follow-on Actions: No Discrepancies Found

(c) If no discrepancy is found during any inspection required by paragraph (a) or (b) of this AD: Do the actions specified by either paragraph (c)(1) or paragraph (c)(2) of this AD.

(1) Repeat the applicable inspections specified in paragraphs (a) and (b) of this AD at least every 9 months until the actions specified in paragraph (c)(2) of this AD have been accomplished.

(2) Perform a detailed inspection of the fitting to detect cracks, corrosion, damaged cadmium plating, or bushing migration, in accordance with and at the time specified in Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2316, dated December 19, 2002. Do the follow-on actions in accordance with Parts 3, 4, and 5 of the Accomplishment Instructions of the service bulletin at the times specified in Figure 1 of the service bulletin, as applicable. Accomplishment of the actions specified by paragraph (c)(2) of this AD terminates the initial and repetitive inspection requirements of paragraphs (a), (b), and (c)(1) of this AD.

Note 4: The exceptions specified in flag note 2 of Figure 1 of Boeing Alert Service Bulletin 747–57A2316, dated December 19, 2002, apply to those requirements of paragraphs (c)(2) and (d) of this AD that are specified in Part 2 of the service bulletin.

Corrective/Follow-on Actions: Discrepancies Found

(d) If any discrepancy is found during any inspection required by paragraph (a), (b), or (c) of this AD: Perform applicable corrective and follow-on actions at the time specified and in accordance with Figure 1 of Boeing Alert Service Bulletin 747–57A2316, dated December 19, 2002. Before further flight: Replace any discrepant fitting in accordance with Part 5 of the Accomplishment Instructions of the service bulletin, and accomplish the follow-on actions for the other fitting common to that flap in accordance with Part 2 of the Accomplishment Instructions of the service bulletin. Replacement of a fitting terminates the initial and repetitive inspections—specified in paragraphs (a), (b), and (c) of this AD—for that fitting only.

Optional Action To Reset Compliance Schedule

(e) Replacement of fittings with new or overhauled fittings, in accordance with Part 5 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2316, dated December 19, 2002, terminates the initial and repetitive inspection requirements of paragraphs (a), (b), and (c) of this AD.

Alternative Methods of Compliance

(f) 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, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(h) The actions shall be done in accordance with Boeing Alert Service Bulletin 747–57A2316, dated December 19, 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on May 8, 2003.

Issued in Renton, Washington, on April 14, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–9691 Filed 4–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–317–AD; Amendment 39–13125; AD 2003–08–12]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) series airplanes. This action requires a detailed inspection to detect cracks of the vane brackets of the inboard flap actuator beam, and follow-on repetitive detailed inspections or corrective actions, as applicable. This action also provides for two optional terminating actions for the detailed inspection(s). This action is necessary to detect and correct gaps between the flap vane bracket and the adjacent lower skin and between the flap vane bracket and vane actuator beam of the wing flap systems, and premature cracking of the flap vane brackets, which could result in failure of the flap vane bracket(s) when the flaps are extended and the flap vane is aerodynamically loaded. Loss or warping of the flap vane in flight could decrease the lift on one side of the airplane, which could lead to reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective May 8, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 8, 2003.

Comments for inclusion in the Rules Docket must be received on or before May 23, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–317–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov.* Comments sent via the Internet must contain ''Docket No. 2002–NM–317–AD'' in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; telephone (516) 256–7512; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model CL–600–1A11 (CL–

600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) series airplanes. TCCA advises that several occurrences of gaps were found between the flap vane bracket and the adjacent lower skin and between the flap vane bracket and vane actuator beam. (There are two vane brackets on each of the three vane actuator beams of both the left and right wings.) During a detailed investigation, it was found that an incorrect production process for the installation of the vane bracket resulted in an uneven contact with the adjacent skin and with the vane actuator beam. Such gaps can cause premature cracking of the flap vane brackets of the vane actuator beams, which could lead to the failure of the flap vane bracket(s) when the flaps are extended and the flap vane is aerodynamically loaded. Loss or warping of the flap vane in flight could decrease the lift on one side of the airplane, which could lead to reduced controllability of the airplane.

Canadian Airworthiness Directives

TCCA classified the alert service bulletins specified in Table 2 of this AD and the Time Limits/Maintenance Checks (TLMC) (all described below) as mandatory and issued Canadian airworthiness directives CF–2002–36 and CF–2002–37, effective August 30, 2002, in order to assure the continued airworthiness of these airplanes in Canada.

Explanation of Relevant Service Information

Bombardier has issued the alert service bulletins specified in Table 2 of this AD, which describe procedures for a detailed inspection to detect cracks of the vane brackets of the inboard flap actuator beam, and follow-on repetitive detailed inspections or corrective actions (*i.e.*, Part B or Part C), as applicable.

Part B corrective actions include:

- Doing a detailed inspection to detect gaps at flap stations 60.0, 98.5, and 137.0 between the flap vane bracket(s) and adjacent lower skin and between the flap vane bracket and vane actuator beam, and repair if necessary;
- Measuring the minimum edge distance (MED) for the fastener holes in all flap vane brackets and actuator beams, and replacing any out-of-tolerance bracket and/or actuator beam with a certain new bracket and/or actuator beam; and
- Doing a nondestructive test (NDT) inspection on all vane brackets for cracks, and corrective actions (*e.g.*, remove gaps, ensure that the MED requirements for the replacement brackets meet the allowable values, and replace any cracked vane bracket with a new bracket that meets the MED requirements).

Part C corrective actions include:

- Replacing all 12 vane brackets with new brackets that meet the MED requirements (including removal of any gap between the flap vane brackets and the adjacent lower skin and between the flap vane bracket and actuator beams); and
- Measuring the MED for the fastener holes in all replacement flap vane brackets and actuator beams (including a detailed inspection for gaps); and replacing any out-of-tolerance bracket and/or actuator beam with a certain new bracket and/or actuator beam that meets the MED requirements, and removing any gap, if necessary.

Accomplishment of Part B or Part C corrective actions eliminates the need for the detailed inspection(s) to detect cracks of the vane brackets of the inboard flap actuator beams, described previously.

Explanation of Relevant Time Limits/Maintenance Checks

After doing either Part B or Part C corrective actions, Canadian airworthiness directives CF–2002–36 and CF–2002–37 require compliance with the applicable TLMC threshold and repeat interval of the Airplane Maintenance Manual (AMM) for the flap vane brackets.

FAA's Conclusions

These airplane models are manufactured in Canada and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to detect and correct gaps between the flap vane bracket and the adjacent lower skin and between the flap vane bracket and vane actuator beam of the wing flap systems, which can cause premature cracking in this area, and consequent failure of the flap vane bracket(s) when the flaps are extended and the flap vane is aerodynamically loaded. Loss or warping of the flap vane in flight could decrease the lift on one side of the airplane, which could lead to reduced controllability of the airplane. This AD requires a detailed inspection to detect cracks of the vane brackets of the inboard flap actuator beam, and follow-on repetitive detailed inspections or corrective actions, as applicable. This AD also provides for two optional terminating actions for the detailed inspection(s). The actions, if accomplished, are required to be accomplished in accordance with the applicable alert service bulletin described previously, except as discussed below.

Differences Between the Alert Service Bulletins and This AD

Although the alert service bulletins describe procedures for identifying and returning all cracked vane brackets to Bombardier, neither the Canadian airworthiness directives nor this AD require such actions.

In addition, although the alert service bulletins specify that the manufacturer may be contacted for disposition of certain repair conditions, this AD requires the repair of those conditions to be accomplished per a method approved by either the FAA, or TCCA (or its delegated agent). In light of the type of repair that is required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this AD, a repair approved by either the FAA or TCCA will be acceptable for compliance with this AD.

Clarification Between the AD and Canadian Airworthiness Directives/Referenced Alert Service Bulletins

Operators should note that, although the parallel Canadian airworthiness directives require compliance with the applicable TLMC threshold and repeat interval of the AMM for the flap vane brackets, this AD first requires a revision of the Airworthiness Limitation Section (ALS) of the Instructions for Continued Airworthiness to incorporate those new threshold and repeat inspection intervals. Revising the ALS, rather than requiring individual repetitive inspections, is advantageous for operators because it allows them to record AD compliance status only at the time that they make the revision, rather than after every inspection. It also has the advantage of keeping all airworthiness limitations, whether imposed by original certification or by

AD, in one place with the operator's maintenance program, thereby reducing the risk of non-compliance because of oversight or confusion.

Interim Action

This is considered to be interim action. The FAA is currently considering requiring Part B or Part C corrective actions (described previously), which will constitute terminating action for the detailed inspection(s) to detect cracks of the vane brackets of the inboard flap actuator beam required by this AD action. However, the planned compliance time for the Part B or Part C corrective actions is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the alert service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–317–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from 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 the following new airworthiness directive:

2003–08–12 Bombardier, Inc. (Formerly Canadair): Amendment 39–13125. Docket 2002–NM–317–AD.

Applicability: This AD applies to the airplanes listed in Table 1 of this AD, certificated in any category. Table 1 is as follows:

TABLE 1.—APPLICABILITY

Model	Serial Nos.
CL–600–1A11 (CL–600) series airplanes.	1004 through 1085 inclusive.
CL–600–2A12 (CL–601) series airplanes.	3001 through 3066 inclusive.
CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	5001 through 5194 inclusive.
CL–600–2B16 (CL–604) series airplanes.	5301 through 5499 inclusive.

Note 1: This AD applies to each airplane 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 airplanes 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 (i) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct gaps between the flap vane bracket and the adjacent lower skin and between the flap vane bracket and vane actuator beam of the wing flap systems, and premature cracking of the flap vane brackets, which could result in failure of the flap vane bracket(s) when the flaps are extended and the flap vane is aerodynamically loaded, and consequent reduced controllability of the airplane, accomplish the following:

Note 2: Where there are differences between the applicable Bombardier alert service bulletin specified in Table 2 of this AD and this AD, the AD prevails.

Inspection

(a) Do a detailed inspection to detect cracks of the vane brackets of the inboard flap actuator beam, per Part A of the Accomplishment Instructions of the applicable Bombardier alert service bulletin specified in Table 2 of this AD; at the

applicable time indicated in Table 3 of this AD. Table 2 is as follows:

TABLE 2.—ALERT SERVICE BULLETINS

For model—	Bombardier alert service bulletin	Excluding
CL–600–1A11 (CL–600) series airplanes	A600–0699, Revision 01, dated July 8, 2002	Service Bulletin Incorporation Sheet, Flap Vane Bracket Inspection Program page, and Minimum Edge Distance Inspection pages.
CL–600–2A12 (CL–601) series airplanes, and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	A601–0532, Revision 01, dated July 8, 2002	Service Bulletin Incorporation Sheet, Flap Vane Bracket Inspection Program page, and Minimum Edge Distance Inspection pages.
CL–600–2B16 (CL–604) series airplanes	A604–27–007, Revision 01, dated July 8, 2002.	Service Bulletin Incorporation Sheet, Flap Vane Bracket Inspection Program page, and Minimum Edge Distance Inspection pages.

Table 3 is as follows:

TABLE 3.—COMPLIANCE TIME

For airplanes that have accumulated—	Compliance time
1,200 total landings or less as of the effective date of this AD.	Before the accumulation of 1,300 total landings.
More than 1,200 total landings, but less than 3,000 total landings as of the effective date of this Ad.	Within 100 landings after the effective date of this AD.
3,000 total landings or more as of the effective date of this AD.	Within 50 landings after the effective date of this AD.

Note 3: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

No Crack Findings: Repetitive Inspections

(b) If no crack is detected during the detailed inspection required by paragraph (a) of this AD, repeat that inspection thereafter at intervals not to exceed 100 landings.

Crack Findings: Corrective Actions

(c) If any crack is detected during the detailed inspection required by paragraph (a) of this AD, before further flight, do the actions specified in paragraph (d) or (e) of this AD.

Optional Terminating Actions

(d) Do the actions specified in paragraphs (d)(1), (d)(2), and (d)(3) of this AD per Part B of the Accomplishment Instructions of the applicable alert service bulletin identified in Table 2 of this AD, unless otherwise specified in this AD. Accomplishment of these actions constitutes compliance with the requirements of paragraphs (a), (b), and (c) of this AD.

(1) Do a detailed inspection to detect gaps at flap stations 60.0, 98.5, and 137.0 between the vane bracket(s) and adjacent lower skin and vane actuator beam. If any gap is in excess of the limits specified in the applicable alert service bulletin, before further flight, repair per a method approved by either the Manager, New York Aircraft Certification Office (ACO), FAA; or Transport Canada Civil Aviation (TCCA) (or its delegated agent).

(2) Measure the minimum edge distance (MED) for the fastener holes in all flap vane brackets and actuator beams. If the MED requirements for any bracket or actuator beam do not meet the allowable values specified in Figure 2 of the applicable alert service bulletin, before further flight, replace the out-of-tolerance bracket and/or actuator beam with a new bracket and/or actuator beam that meet the MED requirements specified in Figure 2 of the applicable alert service bulletin.

(3) Do a nondestructive test (NDT) inspection on all vane brackets for cracks. If any crack is found, before further flight, accomplish the corrective actions (*e.g.*, remove gaps, ensure that the MED requirements for the replacement brackets meet the allowable values specified in Figure 2 of the applicable alert service bulletin, and replace any cracked vane bracket with a new bracket that meets the MED requirements specified in Figure 2 of the applicable alert service bulletin). Although the applicable alert service bulletin describes procedures for identifying and returning all cracked vane brackets to Bombardier, this AD does not require such actions.

(e) In lieu of the actions specified in paragraph (d) of this AD, do the actions specified in paragraphs (e)(1) and (e)(2) of this AD per Part C of the Accomplishment Instructions of the applicable alert service bulletin identified in Table 2 of this AD. Accomplishment of these actions constitutes compliance with the requirements of paragraphs (a), (b), and (c) of this AD.

(1) Replace all 12 vane brackets with new brackets that meet the MED requirements specified in Figure 2 of the applicable alert service bulletin (including removal of any gap between the vane brackets and the adjacent lower skin and actuator beams).

(2) Measure the MED for the fastener holes in all replacement flap vane brackets and actuator beams (including a detailed inspection for gaps).

(i) If the MED requirements for any bracket or actuator beam do not meet the allowable values specified in Figure 2 of the applicable alert service bulletin, before further flight, replace the out-of-tolerance bracket and/or actuator beam with a new bracket and/or actuator beam that meets the MED requirements specified in Figure 2 of the applicable alert service bulletin.

(ii) If any gap is detected, before further flight, repair the gap.

Other Means of Acceptable Compliance With Paragraph (e) of This AD

(f) Accomplishment of the inspections and modifications per Part B or Part C of the applicable alert service bulletin listed in Table 4 of this AD; and the MED dimension checks for the flap brackets and the actuator beams as specified in drawing K600–14251, including any required rework; is considered acceptable for compliance with the requirements of paragraph (e) of this AD. Table 4 of this AD is as follows:

TABLE 4.—ACCEPTABLE BASIC ISSUE ALERT SERVICE BULLETINS

For model—	Bombardier alert service bulletin—
CL–600–1A11 (CL–600) series airplanes.	A600–0699, Basic Issue, dated November 29, 2001.

TABLE 4.—ACCEPTABLE BASIC ISSUE ALERT SERVICE BULLETINS—Continued

For model—	Bombardier alert service bulletin—
CL–600–2A12 (CL–601) series airplanes, and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes.	A601–0532, Basic Issue, dated November 29, 2001.
CL–600–2B16 (CL–604) series airplanes.	A604–27–007, Basic Issue, dated November 29, 2001.

Time Limits/Maintenance Checks

(g) After doing the actions specified in paragraph (d) or (e) of this AD, revise the Airworthiness Limitation Section (ALS) of the Instructions for Continued Airworthiness to state the following (this may be accomplished by inserting a copy of this AD in the ALS):

''Do the applicable Time Limits/Maintenance Checks (TLMC) inspection task for the flap vane brackets at the times specified in the following table:

TABLE 5.—COMPLIANCE TIME FOR TLMCS

Condition of brackets and gaps	Compliance time
No gap or crack in any flap vane bracket.	Continue using existing TLMC bracket schedule as published in the applicable ALS.
No crack in any flap vane bracket, but shims added.	For Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes: Repeat inspections remain at 600 landings from rework.
	For Model CL–600–2B16 (CL–604) series airplanes: Repeat inspections remain at 1,800 landings from rework.
All 12 flap vane brackets have been replaced.	For Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes:

TABLE 5.—COMPLIANCE TIME FOR TLMCS—Continued

Condition of brackets and gaps	Compliance time
	New threshold of 7,000 landings from installation of new flap vane brackets. Repeat inspections remain at 600 landings.
	For Model CL–600–2B16 (CL–604) series airplanes: New threshold of 7,200 landings from installation of new flap vane brackets. Repeat inspections remain at 1,800 landings.''

(h) After doing the requirements of paragraph (g) of this AD, except as provided in paragraph (i) of this AD, no alternative inspection times may be approved for these flap vane brackets.

Alternative Methods of Compliance

(i) 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, New York ACO, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

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

Incorporation by Reference (IBR)

(k) Unless otherwise specified in this AD, the actions shall be done in accordance with the Bombardier alert service bulletin specified in Table 5 of this AD, as applicable.

Table 5 is as follows:

TABLE 6.—IBR ALERT SERVICE BULLETINS

Alert service bulletin	Excluding
Bombardier Alert Service Bulletin A600–0699, Revision 01, dated July 8, 2002.	Service Bulletin Incorporation Sheet, Flap Vane Bracket Inspection Program page, and Minimum Edge Distance Inspection pages.

TABLE 6.—IBR ALERT SERVICE BULLETINS—Continued

Alert service bulletin	Excluding
Bombardier Alert Service Bulletin A601–0532, Revision 01, dated July 8, 2002.	Service Bulletin Incorporation Sheet, Flap Vane Bracket Inspection Program page, and Minimum Edge Distance Inspection pages.
Bombardier Alert Service Bulletin A604–27–007, Revision 01, dated July 8, 2002.	Service Bulletin Incorporation Sheet, Flap Vane Bracket Inspection Program page, and Minimum Edge Distance Inspection pages.

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 Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station A, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in Canadian airworthiness directives CF–2002–36 and CF–2002–37, effective August 30, 2002.

Effective Date

(l) This amendment becomes effective on May 8, 2003.

Issued in Renton, Washington, on April 14, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–9690 Filed 4–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–48–AD; Amendment 39–13107; AD 2003–07–11]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Models BR700–710A1–10 and BR700–710A2–20 Turbofan Engines; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments, correction.

SUMMARY: This document makes corrections to Airworthiness Directive (AD) 2003–07–11, applicable to Rolls-Royce Deutschland Ltd & Co KG (formerly Rolls-Royce Deutschland GmbH, formerly BMW Rolls-Royce GmbH), models BR700–710A1–10 and BR700–710A2–20 turbofan engines. AD 2003–07–11 was published in the **Federal Register** on April 11, 2003 (68 FR 17727). In the compliance section, paragraph (g) incorrectly references cycles and should reference hours, and the paragraph lettering sequence after paragraph (g) is incorrect. This document corrects cycles to hours and corrects the paragraph lettering sequence. In all other respects, the original document remains the same.

EFFECTIVE DATE: April 28, 2003.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7176; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A final rule; request for comments airworthiness directive FR DOC 03–8327, applicable to Rolls-Royce Deutschland Ltd & Co KG models BR700–710A1–10 and BR700–710A2–20 turbofan engines, was published in the **Federal Register** on April 11, 2003 (68 FR 17727). The following correction is needed:

On page 17729, in the second column, under Repetitive Inspections heading, paragraph (g), third line, which reads ''accumulating 500 cycles-since-the-last visual and ultrasonic inspections'' is corrected to read ''accumulating 500 hours-since-the-last visual and ultrasonic inspections''. Also, on page 17729, in the second column, under Inspection Reporting Requirements heading, paragraph letter ''(g)'' is corrected to read ''(h)'', under Alternative Methods of Compliance heading, paragraph letter ''(h)'' is corrected to read ''(i)'', under Special Flight Permits heading, paragraph ''(i)'' is corrected to read ''(j)'', under Documents That Have Been Incorporated by Reference heading, paragraph ''(j)'' is corrected to read ''(k)'', and in the third column, under Effective Date heading, paragraph ''(k)'' is corrected to read ''(l)''.

Issued in Burlington, MA, on April 17, 2003.

Francis A. Favara,

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

[FR Doc. 03–9982 Filed 4–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14927; Airspace Docket No. 03–ACE–33]

Modification of Class E Airspace; Crete, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: The Crete Nondirectional Radio Beacon (NDB) will be decommissioned and NDB Standard Instrument Approach Procedures (SIAPs) serving Crete Municipal airport will be cancelled effective July 10, 2003. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) that accommodates the NDB SIAPs will no longer be needed. An examination of controlled airspace for Crete, NE revealed discrepancies in the Crete Municipal Airport, NE airport reference point.

The intended effect of this rule is to modify the Crete, NE Class E airspace area legal description, provide appropriate controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR) at Crete, NE, delete the Crete NDB and coordinates from the legal description and comply with the criteria of FAA Order 7400.2E.

DATES: This direct final rule is effective on 0901 UTC, July 10, 2003.

Comments for inclusion in the Rules Docket must be received on or before May 30, 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 number FAA–2003–14927/ Airspace Docket No. 03–ACE–33, at the beginning of your comments. You may also submit comments on 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.

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet above the surface at Crete, NE. The Crete NDB is decommissioned effective July 10, 2003. NDB SIAPs that serve Crete Municipal Airport are cancelled on that date. Controlled airspace extending upward from 700 feet AGL that accommodates these SIAPs will no longer be needed. The amendment to Class E airspace at Crete, NE provides controlled airspace at and above 700 feet AGL to contain SIAPs, other than the NDB SIAPs, at Crete Municipal Airport. Additional Class E airspace necessary for the NDB SIAPs is revoked. The Crete NDB and coordinates, and reference to these, are deleted from the legal description of Crete, NE Class E airspace. The current Crete Municipal Airport reference point is incorporated into the legal description of Crete, NE Class E airspace. This modification brings the legal description of this airspace area into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 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 Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal**

Register indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this 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–2003–14927/Airspace Docket No. 03–ACE–33.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 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 Federal Aviation Administration Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE NE E5 Crete, NE

Crete Municipal Airport, NE
(Lat. 40°37′05″N., long. 96°55′30″W.)
Lincoln VORTAC
(Lat. 40°55′26″N., long. 96°44′31″W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Crete Municipal Airport and within 2.6 miles each side of the 205° radial of the Lincoln VORTAC extending from the 6.4-mile radius to 7.9 miles southwest of the airport.

* * * * *

Issued in Kansas City, MO, on April 14, 2003.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 03–10047 Filed 4–22–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2002–13414; Airspace Docket No. 02–AGL–7]

RIN 2120–AA66

Modification of Restricted Areas R–6904A and R–6904B, Volk Field, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action raises the upper limit of Restricted Areas 6904A (R–6904A) and R–6904B, Volk Field, WI, from 17,000 feet above mean sea level (MSL) to Flight Level 230 (FL 230). Expanding the vertical limit of these areas facilitates the transition of participating aircraft between these restricted areas and the overlying Volk West Air Traffic Control Assigned Airspace (ATCAA). The additional airspace is needed to fulfill new United States Air Force (USAF) training requirements. This rule makes no other changes to R–6904A or R–6904B.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Steve Rohring, 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

On January 28, 2003, the FAA proposed (68 FR 4118) to amend 14 CFR part 73 to increase the vertical limits of R–6904A and R–6904B from 17,000 feet above MSL to FL 230. The FAA proposed this action in response to a request from the USAF indicating that current airspace is not sufficient to fulfill new training requirements and that participating aircraft must change their flight profile by reducing their airspeed when crossing the 1,000 feet of airspace located above the restricted areas and below the Volk West ATCAA. This requested action facilitates the transition of participating aircraft between these restricted areas and the overlying Volk West ATCAA by eliminating the 1,000-foot gap between the restricted areas and the ATCAA. This action also provides additional airspace needed to fulfill new USAF training requirements. Specifically, new training requirements call for practicing the release of bombs from higher altitudes than are currently available within the existing airspace structure. The new upper limit of FL 230 is suitable for meeting this new training requirement. No other changes to R–6904A or R–6904B are made by this action. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on this proposal to the FAA.

Discussion of Comment

In response to the Notice of Proposed Rulemaking, the FAA received one comment supporting the proposed

change and no comments in opposition to the change.

The Rule

This amendment to 14 CFR part 73 raises the vertical limits of R–6904A and R–6904B from 17,000 feet above MSL to FL 230. This additional altitude is required to eliminate the 1,000-foot gap between the restricted areas and the overlying Volk West ATCAA, and to meet the Air Force's requirement to practice the release of bombs from higher altitudes than are currently available within the existing restricted area airspace. No other changes to R–6904A or R–6904B are made by this action.

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

The USAF determined that this amendment of the restricted area's designated altitude qualifies for a categorical exclusion. The FAA has reviewed the USAF's environmental documentation and concludes that this action is categorically excluded in accordance with FAA Order 1050.1D, Procedures for Handling Environmental Impacts, and the FAA/DOD Memorandum of Understanding of 1998 regarding Special Use Airspace actions.

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.

§ 73.63 [Amended]

■ 2. § 73.63 is amended as follows:

* * * * *

R–6904A Volk Field, WI [Amended]

By removing the current designated altitudes and substituting the following:

Designated altitudes. 150 feet AGL to FL 230.

R–6904B Volk Field, WI [Amended]

By removing the current designated altitudes and substituting the following:

Designated altitudes. Surface to FL 230.

* * * * *

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

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 03–10043 Filed 4–22–03; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

[Notice: (03–043)]

RIN 2700–AC56

Recruitment and Selection of Astronaut Candidates

AGENCY: National Aeronautics and Space Administration.

ACTION: Direct final rule.

SUMMARY: The National Aeronautics and Space Administration (NASA) is amending its regulations setting forth its procedures for recruitment and selection of astronaut candidates. NASA's astronaut candidate selection process was developed to select highly qualified individuals to perform in mission specialist and pilot astronaut positions in human space programs. The activities currently are conducted by the Astronaut Selection Office at the Johnson Space Center (JSC). NASA proposes to amend the rules to permit some of these recruitment and selection activities to be performed by NASA organizational elements that are not part of JSC. This change is necessary to conduct efficient and effective recruitment of a new component of the Astronaut Program, the Educator Astronauts.

DATES: This rule is effective July 22, 2003, without further action, unless adverse comment is received by May 23, 2003. If adverse comment is received, NASA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Written comments should be addressed to NASA Headquarters, Code FPP, 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Candace Irwin, NASA Headquarters, Code FPP, 300 E Street, SW., Washington, DC 20546; telephone (202) 358–1206.

SUPPLEMENTARY INFORMATION: This direct final rule amends the NASA regulations governing the NASA Astronaut Candidate Recruitment and Selection Program. NASA is amending its regulations to address the addition of a new component of the Astronaut corps: Educator Astronauts. The Educator Astronaut Program is designed to motivate U.S. students and educators to recognize the value of science, technology, engineering, and mathematics; attract more people to the teaching, science, technology, engineering, and mathematics professions; enhance the public's understanding of the value of America's educators; and share the diverse people and opportunities that advance our Nation's achievements in science, technology, and exploration. NASA will recruit educators to join NASA's Astronaut Corps to perform educator as well as mission specialist duties that will support NASA's education outreach program. Involvement of appropriate elements of the education community is integral to conduct activities associated with the recruitment and selection of Educator Astronauts. The current rule, assigning responsibility to JSC for individual activities such as announcing astronaut candidate opportunities, implementing the application process, reviewing applications, establishing cutoff dates for accepting applications, and appointing the rating panel, supports the historical Astronaut Candidate Program but does not enable enhancements to the program that necessarily require activities outside of JSC. The Educator Astronaut positions, which will be integral to the Astronaut Candidate Program, offer an education component, necessitating involvement by NASA's Office of Education at NASA Headquarters, in activities leading to identification of candidates who meet the educator requirements of the position. Accordingly, the rule is being amended so that a specific NASA Center is not assigned responsibility for conducting an activity that could be performed by, or in conjunction with, another NASA Center or Headquarters.

Matters of Regulatory Procedure

Executive Order 12866 Determination

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulation, Planning and Reviews, 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.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), NASA has 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. Pursuant to 5 U.S.C. 605(b), NASA certifies that this rule will not have a significant economic impact on a substantial number of small entities because the rule affects the operations of NASA and its employees. Accordingly, no regulatory flexibility analysis is required.

Collection of Information

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

Federalism

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

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 affect 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.

Taking of Private Property

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

Civil Justice Reform

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

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effectiveness of their discretionary regulatory actions. NASA has determined that the rule will not result in expenditures of $100 million or more by State, local, or tribal governments or by the private sector. The rule affects only the internal organization of NASA. Accordingly, NASA has not prepared a budgetary impact statement or specifically addressed regulatory alternatives.

List of Subjects in 14 CFR Part 1214

Government employees, Security measures, Space transportation and exploration.

PART 1214—SPACE FLIGHT

■ 14 CFR part 1214 is amended as follows:

■ 1. The authority citation for part 1214 is revised to read as follows:

Authority: Section 203(c)(1), National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(c)).

Subpart 1214.11—NASA Astronaut Candidate Recruitment and Selection Program

§ 1214.1101 [Amended]

■ 2. In § 1214.1101, remove the words ''by the Johnson Space Center (JSC)'' in paragraph (a), remove paragraph (c), and redesignate paragraphs (d) and (e) as paragraphs (c) and (d), respectively.

§ 1214.1102 [Amended]

■ 3. In § 1214.1102, in the first sentence of paragraph (a), remove the words ''by the JSC Human Resources Office,'' and in the second sentence, remove the words ''in writing;''

In paragraph (d) remove the words ''by JSC.'' and

Revise paragraphs (b) and (c) and the last sentence of paragraph (d) to read as follows:

§ 1214.1102 Evaluation of applications.

* * * * *

(b) A rating panel composed of discipline experts will review and rate qualified applicants as ''Qualified'' or ''Highly Qualified.''

(c) Efforts will be made to ensure that minorities and females are included among these discipline experts on the rating panel.

(d) * * * This evaluation process will be monitored to ensure adherence to applicable policy, laws, and regulations.

* * * * *

§ 1214.1103 [Amended]

■ 4. In § 1214.1103, remove the last sentence of paragraph (b) and revise the first sentence in paragraph (b) to read as follows:

§ 1214.1103 Application cutoff date.

* * * * *

(b) Once such approval has been obtained, a cutoff date for the acceptance of applications will be established. * * *

§ 1214.1104 [Amended]

■ 5. In § 1214.1104, revise paragraph (a) to read as follows:

§ 1214.1104 Evaluation and ranking of highly qualified candidates.

(a) A selection board consisting of discipline experts, and such other persons as appropriate, will further evaluate and rank the ''Highly Qualified'' applicants.

* * * * *

Dated: April 14, 2003.

Sean O'Keefe,

Administrator.

[FR Doc. 03–10002 Filed 4–22–03; 8:45 am]

BILLING CODE 7510–01–P

Proposed Rules

Federal Register
Vol. 68, No. 78
Wednesday, April 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 THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 5 and 28

[Docket No. 03–07]

RIN 1557–AC04

Rules, Policies, and Procedures for Corporate Activities; International Banking Activities

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) proposes to amend its regulations pertaining to the foreign operations of national banks, and of Federal branches and agencies of foreign banks operating in the United States, in both cases generally to make regulatory requirements more streamlined and risk-based. The proposed rule would clarify certain regulatory definitions and simplify approval procedures for foreign banks seeking to establish Federal branches and agencies in the United States. These proposed changes will further conform the treatment of Federal branches and agencies of foreign banks to that of their domestic national bank counterparts consistent with the national treatment principles of the International Banking Act.

DATES: Comments must be received by June 23, 2003.

ADDRESSES: Please direct your comments to: Office of the Comptroller of the Currency, 250 E Street, SW., Public Information Room, Mailstop 1–5, Washington, DC 20219, Attention: Docket No. 03–07; fax number (202) 874–4448; or Internet address: *regs.comments@occ.treas.gov.* Due to delays in paper mail delivery in the Washington area, we encourage the submission of comments by fax or e-mail whenever possible. Comments may be inspected and photocopied at the OCC's Public Reference Room, 250 E Street, SW., Washington, DC. You may make an appointment to inspect comments by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: Lee Walzer, Counsel, Legislative & Regulatory Activities Division, (202) 874–5090; Carlos Hernandez, Senior International Advisor, International Banking & Finance, (202) 874–4741; or R. Julie Olson, Director, Licensing Policy & Systems, (202) 874–5060.

SUPPLEMENTARY INFORMATION:

Background

The OCC is committed to continually reevaluating our rules to reduce unnecessary regulatory burden and simplify compliance, consistent with the safe and sound operation of the institutions we supervise. We have recently undertaken such a review of part 28 of our regulations, which governs the foreign operations of national banks and the U.S. operations of Federal branches and agencies of foreign banks. As a result, we are proposing to revise part 28 to incorporate changes that clarify, streamline, and simplify compliance with a number of its requirements. The most significant revisions to part 28 include: (1) Streamlining procedures for national banks' foreign operations through branches; (2) eliminating the requirement to file an application with the OCC in certain circumstances when a foreign bank downgrades its U.S. operations; (3) requiring approval, but not a new license, for additional Federal branches or agencies opened after the establishment of the initial branch office; and (4) clarifying that a foreign bank with Federal branches and agencies in more than one state may consolidate its capital equivalency deposits (CEDs) in one deposit account in a depository bank that satisfies certain criteria.

The proposal also makes conforming changes to the procedural provisions in part 5 of our regulations, and amends part 5 to permit a Federal branch to make certain non-controlling equity investments on the same terms as national banks. The proposed changes further conform the treatment of foreign banks to that of their domestic national bank counterparts and are, therefore, in keeping with the national treatment requirements of the International Banking Act (IBA).

Certain fundamental provisions of part 28 remain unchanged. For example, none of the proposed changes affects any legal requirements that are imposed by the Board of Governors of the Federal Reserve System (FRB) in the FRB's Regulation K [1] or by any other applicable law with respect to national banks' foreign activities or the operations of foreign banks in the United States. Moreover, operations of a Federal branch or agency continue to be subject to the ''same rights and privileges and subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply if the Federal branch or agency were a national bank operating at the same location.'' 12 CFR 28.13(a)(1). Accordingly, U.S. domestic laws apply to a Federal branch or agency to the same extent that they would apply to a national bank operating at the same location.

Section-by-Section Description of the Proposal

A. Changes to 12 CFR Part 5

1. Definitions (revised § 5.3)

The proposal amends § 5.3 to update references to the OCC units that should receive certain applications. In paragraph (c)(1), the term ''Licensing Department'' replaces the current ''Bank Organization and Structure,'' reflecting a nomenclature change. Likewise, in paragraph (c)(4), ''Northeastern District Office'' would be substituted for ''International Banking and Finance Department,'' to take into account changes in where Federal branches and agencies submit applications.

2. Permissible Equity Investments (revised § 5.36)

Section 5.36 of the OCC's rules permits a well-capitalized, well-managed national bank to make certain non-controlling investments in an enterprise, directly or through its operating subsidiary, by filing a written notice with the appropriate OCC district office no later than 10 days after making the investment.

The proposed rule adds a new paragraph (g) to § 5.36 to permit a well-capitalized and well-managed Federal branch to make non-controlling investments and use the after-the-fact notice procedure set forth in § 5.36 in

[1] 12 CFR part 211.

the same manner as a national bank. To do so, the Federal branch would be required to meet the qualifications set forth in 12 CFR 4.7(b)(1)(iii), which describes capital adequacy standards that the Federal branch must satisfy to be examined on an 18-month schedule, and the managerial standards in 12 CFR 5.34(d)(3)(ii), which are applicable to a Federal branch that wishes to acquire, establish, or maintain an operating subsidiary.

Extending § 5.36 to Federal branches is consistent with national treatment principles, which provide that Federal branches of foreign banks are generally subject to the same rights and privileges, and subject to the same duties, conditions, and limitations, as domestic national banks.

3. Federal Branches and Agencies (revised § 5.70)

The proposal amends § 5.70, which describes filing requirements for corporate activities and transactions involving Federal branches and agencies, to ensure consistency with proposed changes to 12 CFR part 28 described elsewhere in this proposal. In particular, the proposal deletes the definition of ''change the status of an office'' while the definition of ''establish'' a Federal branch or agency is revised to comport with proposed changes to those definitions in part 28, which are described below.

B. Changes to 12 CFR Part 28: Foreign Operations of a National Bank

1. Filing Requirements for Foreign Operations of a National Bank (revised § 28.3)

Currently, § 28.3 requires national banks to notify the OCC upon opening, closing, or relocating a foreign branch, whether or not a filing to the FRB is required under the FRB's rules governing the foreign operations of member banks and other U.S. banking organizations.[2] The proposed rule amends § 28.3 to provide that no notice to the OCC is required if a national bank closes or relocates a foreign branch.

2. Filing of Notice (revised § 28.5)

Currently, § 28.5 requires national banks to file notices with the International Banking & Finance Division at OCC headquarters. The proposed rule amends § 28.5 to provide that notices should be filed with ''the appropriate supervisory office.''

[2] *See* 12 CFR part 211, subpart A (FRB rules pertaining to foreign operations of domestic banking organizations).

C. Changes to 12 CFR Part 28: Operations of Federal Branches and Agencies of Foreign Banks

1. Definitions (revised § 28.11)

The IBA, which governs the operations of foreign banks in the United States through branches and agencies and other offices, sets standards for licensing the offices of foreign banks and requires the OCC to approve the ''establishment'' of Federal branches and agencies of foreign banks. Part 28 currently defines the term ''establish'' to mean initial entry of a foreign bank into the United States via a Federal branch or agency; the opening of additional branches and agencies, whether through intrastate or interstate branching; mergers and other consolidations; and ''changes in status.'' The term ''changes in status'' means both expansions (from a Federal agency to a Federal branch) and contractions in activities (from a Federal branch into a Federal agency).[3]

As revised, the definition of ''establish a Federal branch or agency'' includes the opening of a Federal branch or agency established by a foreign bank, whether directly, through interstate or intrastate branching, through a merger or acquisition, through a conversion from a state office to a Federal office, through an upgrade from a Federal agency to a Federal branch, or through a relocation. In addition, the revised definition includes some activities formerly covered by the definition of ''changes in status,'' including conversions from a state branch or agency, or commercial lending company, into a Federal branch, limited Federal branch, or Federal agency. The separate definition of ''changes in status'' is therefore removed as unnecessary. The proposed definition, however, excludes contractions in activities, *e.g.*, conversion from a Federal branch to a Federal agency, that do not present the need for the same scope of regulatory review that expansions necessitate. The effect of these changes would be to eliminate the requirement for a filing with the OCC when a foreign bank contracts its activities. In addition, for eligible foreign banks, certain activities, including the opening of an additional Federal branch or agency on either an intrastate or interstate basis, conversions or mergers, would be subject to expedited regulatory processes discussed elsewhere in the regulation.

[3] The definitions of ''establish'' and ''changes in status'' are similar to those adopted by the Board of Governors of the Federal Reserve System (FRB) in its Regulation K. *See* 12 CFR 211.21(f) (changes in status) and 211.21(*l*) (establish).

2. Approval and Licensing Requirements for a Federal Branch or Agency (revised § 28.12(a))

The proposed rule substantially revises current § 28.12, which governs approvals for the establishment of a Federal branch or agency. The OCC would continue to require an application and prior approval for foreign banks seeking to establish a Federal branch, Federal agency, or limited Federal branch in the United States. The licensing procedures would cover the initial branch or agency of a foreign bank. Subsequent offices resulting from acquisitions or interstate branching, for example, would require regulatory approval, but no additional license would be granted for those subsequent establishments unless the additional office would be an expansion of activities (*i.e.*, the additional office would be a full-service branch but the foreign bank's only license is for a limited Federal branch or agency).

The proposed rule also streamlines the licensing procedures. Currently, foreign banks must receive a license to open and operate any initial or additional Federal branch or agency. The proposed rule in § 28.12(a)(2) provides that a foreign bank must continue to receive a license to open and operate its initial Federal office in the United States. After that, however, a new license would be necessary for additional branches or agencies only if the foreign bank is proposing to upgrade its activities from those authorized in its current license; for example, if the foreign bank currently has a license for a limited Federal branch and wants to open a new office as a full-service Federal branch or operate its limited Federal branch as a full service branch. This change in the licensing procedures would not affect the substance of the OCC's regulatory and supervisory responsibilities. The OCC would continue to review and approve applications for additional offices in accordance with applicable law (*see* 12 U.S.C. 3102(h), 3103(a)(1) (OCC prior approval required for intrastate and interstate additional Federal branches and agencies)) and would continue to supervise these additional offices in the same manner as it does the initial branch or agency. This streamlining of the licensing requirements will enable the OCC to require less extensive information from a foreign bank for an additional establishment than for an initial Federal office.

This proposed change better promotes national treatment of foreign bank operations in the United States. Federal law and OCC regulations impose

requirements for the *de novo* chartering of a national bank that differ from those applicable to that bank's subsequent establishment of additional branches or offices. With respect to licensing procedures, the proposal treats the opening of additional Federal offices by foreign banks in a manner similar to the procedures followed by national banks when opening additional branches.

Moreover, OCC regulations already distinguish between initial and additional Federal branches or agencies of foreign banks. For example, part 28 requires that a ''foreign bank shall designate one Federal branch or agency office in the United States to maintain consolidated information so that the OCC can monitor compliance.'' *See* 12 CFR 28.14(c). It also requires that a ''foreign bank with more than one Federal branch or agency in a state shall designate one of those offices to maintain consolidated asset, liability, and capital equivalency accounts for all Federal branches or agencies in that state.'' 12 CFR 28.18(c)(2). Requiring a license for the initial Federal branch or agency and treating subsequent establishments as expansions is consistent with these regulations, which already employ a ''lead'' Federal branch or agency approach to the supervision of foreign banks' U.S. operations. Finally, we note that the IBA has separate provisions in the law dealing with the initial establishment of a Federal branch or agency by a foreign bank, and subsequent establishments. *See* 12 U.S.C. 3102(a)(1) and (h).

The OCC invites comment on the proposed treatment of regulatory applications by foreign banks.

3. CCS Requirements (revised § 28.12(b)(5))

Under current § 28.12(b)(5), the OCC considers whether a foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor (CCS) in reviewing any application to establish a Federal branch or agency, including state-to-Federal conversions, upgrades, downgrades, and relocations, as well as establishing or acquiring a branch. In addition, the IBA requires the FRB to determine that a foreign bank seeking to establish a U.S. branch or agency is subject to CCS or that its home country supervisor is actively working to establish arrangements for CCS. 12 U.S.C. 3105(d). This proposal would reduce regulatory burden and conform to the OCC's risk-based practice by providing that the OCC generally will consider CCS only in certain cases and *may*, in its discretion, consider it in other cases as deemed appropriate.

As required by statute, the OCC will apply the standards of CCS when acting on applications for interstate establishments. *See* 12 U.S.C. 3103(a)(3)(A). In connection with other applications to establish a Federal branch or agency, the OCC *may* consider CCS if necessary based on the circumstances of a particular case. This change in the OCC's rule would have no effect on the FRB's statutory requirement to make a CCS determination in connection with any application by a foreign bank to establish a U.S. office, as that requirement is interpreted by the FRB.

The OCC believes that revising the circumstances under which the OCC will consider CCS is consistent with the supervision by risk approach. It may be appropriate to consider CCS when evaluating an application to establish an initial Federal branch or agency, in the same manner as an initial application to charter a national bank triggers a comprehensive regulatory review, but not when evaluating an application to open an additional Federal branch or agency. With respect to supervision of existing Federal branches and agencies, the OCC through the ongoing supervisory process, including information sharing with the FRB and foreign supervisors, monitors developments relating to a parent foreign bank and its home country. A CCS review involves these same types of determinations. Thus, absent specific supervisory concerns, in most cases we already would have the information about the quality of home country supervision to make a decision on the application. Moreover, in most cases, the FRB is required by statute to make a CCS determination and it may be unduly burdensome on the foreign bank for the OCC to be undertaking a duplicative CCS review, except in unusual circumstances or as expressly required by statute.

The proposed rule would not foreclose the OCC from considering CCS and undertaking a CCS review in any circumstance that it deems appropriate. The OCC invites comment on the proposed changes in the CCS requirement. In particular, are there certain transactions for which the OCC should regularly consider and conduct a CCS review other than for interstate branching applications as required by statute, *e.g.*, in the case of an application to establish an initial Federal branch or agency?

4. Expedited Approval Procedures (new § 28.12(e)(2) and (e)(3), revised § 28.12(e)(4), and new § 28.12(i))

Currently, part 28 requires that an application to establish a Federal branch or agency interstate is subject to the same review process that a foreign bank would undergo when it establishes its first Federal branch or agency in the United States. However, the rule provides that, for eligible foreign banks, an application to change the status of an office will be deemed approved on the 45th day after filing with the OCC. 12 CFR 28.12(e)(2). Under the current rule, a change in status includes contractions in operations as well as expansions. *Id. See* also 12 CFR 28.11(g) and 28.12(a).

The proposed rule provides for expedited review of additional types of applications to establish a Federal branch or agency. Under proposed new § 28.12(e)(2), a foreign bank may establish a new intrastate Federal branch or agency after providing written notice to the OCC 45 days in advance of the proposed establishment. The OCC would retain flexibility to waive the 45-day period in certain circumstances, as well as suspend the notice period or require an application if the notice raises significant policy or supervisory issues. Permitting the establishment of an intrastate Federal branch or agency through a notice procedure generally is consistent with procedures for domestic national banks (*see* 12 CFR 5.30(f)(5)) and the practices of other regulators (*see* 12 CFR 211.24(a)(2)).

In addition, under the proposed new § 28.12(e)(3), an eligible foreign bank's application to establish a Federal branch or agency interstate is conditionally approved as of the 45th day after the OCC receives the completed application, unless the OCC notifies the bank that the filing is not eligible for expedited review.

Under proposed § 28.12(e)(4), an application by an eligible foreign bank to convert state offices to Federal offices, or expand activities by converting a Federal agency or limited Federal branch to a Federal branch, would be deemed approved as of the 30th day after filing with the OCC, unless the OCC notifies the bank that the application was not eligible for expedited review.

As we have explained, the proposal deletes the current ''change in status'' definition in § 28.11(d). It also excludes contractions in activities conducted under a Federal license from the list of transactions that trigger the establishment of a Federal branch or agency. For contractions, new § 28.12(i) would provide that a foreign bank only

would be required to provide written notice to the OCC within 10 days after converting a full-service Federal branch into a limited Federal branch or Federal agency. Also, as discussed in connection with proposed § 28.12(a)(2), such a downgrade in operations would not require the foreign bank to obtain a new license.

5. Eligible Foreign Bank (revised § 28.12(f))

Under current part 28, foreign banks with Federal branches and agencies that all are rated ''1'' or ''2'' under the applicable interagency rating system are eligible for expedited processing for their applications and other filings. 12 CFR 28.12(e) and (f). The proposed rule would revise § 28.12(f) to provide that a foreign bank that has no Federal branches or agencies also is eligible if it is engaging in a state-to-Federal conversion and its state offices satisfy the eligibility criteria. This change would codify procedures that the OCC already has adopted in its Licensing Manual.

6. After-the-fact Notice for Certain Acquisitions (new § 28.12(h))

Under current part 28, if foreign bank A, which has a Federal branch, merges with foreign bank B, which does not have a Federal office, an application to establish the Federal branch would have to be submitted to the OCC if B were the surviving institution. Under current § 28.12(g), the two foreign banks may proceed with their merger without approval of B's establishment of the branch if B provides reasonable advance notice of the transaction to the OCC. Prior to the merger, B must also apply to the OCC or commit to abide by the OCC's decision on the application.

New § 28.12(h) would provide an expedited procedure for foreign bank B if B already has banking offices in the United States. The proposed rule would further decrease the regulatory burden on foreign banks, while maintaining safety and soundness standards. The OCC would retain the discretion to require prior approval to establish the Federal branch or agency if necessary for prudential reasons.

7. Exceptions to Usual Filing Procedures (revised § 28.12(j))

For national banks, § 5.2(b) of the OCC's rules permits the OCC to use filing procedures other than those prescribed by part 5 in ''exceptional circumstances,'' including ''unusual transactions.'' The proposed rule revises § 28.12(j) (as redesignated in this proposal) to clarify that the OCC also reserves the right to adopt different procedures with respect to a part 28 filing or class of filings.

8. Other Applications Accepted (new § 28.12(*l*))

The OCC's Licensing Manual currently states that the OCC will accept copies of applications to other Federal agencies if they contain the information that we require for a particular OCC approval requirement. The proposed rule revises § 28.12*(l)* to codify this practice and provide that the OCC will accept copies of applications or notices to other regulators. The OCC may, however, request additional information from an applicant as deemed necessary should the application or notice contain less information than the OCC needs to reach a decision.

9. Capital Equivalency Deposits (revised § 28.15(a)(1) and new § 28.15(a)(3))

The IBA requires Federal branches and agencies to establish and maintain a CED. 12 U.S.C. 3102(g). On June 19, 2002, the OCC issued a final rule revising certain requirements regarding CED deposit arrangements to increase flexibility for, and reduce burden on, certain Federal branches and agencies, based on a supervisory assessment of the risks presented by the particular institutions.[4] The additional changes contained in this proposal would further reduce unnecessary burden and simplify compliance with the CED requirements.

The proposed rule amends § 28.15(a)(1) to clarify the types of assets eligible to be deposited in a CED. Currently, a CED must consist of bank-eligible securities; dollar deposits payable in the United States; certificates of deposit payable in the United States; and other assets permitted by the OCC. Under the proposed rule, the requirement that dollar deposits be payable in the United States would be amended to include dollar deposits payable in any G–10 country. It further adds repurchase agreements to the list of permissible CED assets. Finally, the proposal revises this paragraph to clarify that the OCC's authority to permit other assets to qualify for the CED is limited to other assets that are similar to those expressly included in the statute.

The proposed rule adds a new § 28.15(a)(3) that would clarify that the OCC excludes liabilities of an international banking facility to third parties, and of a Federal branch to an international banking facility, when calculating the required amount of a CED. This is consistent with the OCC's current policy. Also, the proposed rule permits the OCC to exclude liabilities from repurchase agreements on a case-by-case basis. These provisions are consistent with the practice of some other regulators. *See* 3 NYCRR 322.1(a)(1) and (c) (exclusion of liabilities from repurchase agreements for purposes of calculating CED under New York state regulations).

10. CED Deposit Accounts (new § 28.15(e))

The statutory CED requirement specifies that ''a foreign bank * * * shall keep on deposit, in accordance with such rules and regulations as the Comptroller may prescribe, with a member bank designated by such foreign bank, dollar deposits or investment securities of the type that may be held by national banks for their own accounts pursuant to paragraph ''Seventh'' of section 24 of this title, in an amount as hereinafter set forth. Such depository bank shall be located in the State where such branch or agency is located and shall be approved by the Comptroller if it is a national bank and by the Board of Governors of the Federal Reserve System if it is a State bank.'' 12 U.S.C. 3102(g)(1).

The IBA does not expressly address whether the CEDs of several Federal branches may be combined or whether a foreign bank with Federal branches and agencies in more than one state may keep CEDs in one account in a depository bank. Moreover, the IBA does not define the term ''located'' for purposes of determining where a depository bank is located or where the Federal branch or agency is located for purposes of the CED requirement. The proposed rule clarifies that a foreign bank with interstate offices has the discretion to consolidate all or some of its CEDs into one account. It further clarifies that, for purposes of the CED account, a foreign bank must deposit the CEDs in a depository bank that is located, *i.e.*, has its main office or a branch, in the parent foreign bank's home state[5] or in the state in which the Federal branch or agency is licensed.[6]

[4] 67 FR 41619 (June 19, 2002).

[5] *See* 12 CFR 28.11(o)(definition of ''home state'').

[6] As described in the text, the IBA provides that a CED shall be ''in accordance with such limitations and conditions as the Comptroller may prescribe. * * *'' 12 U.S.C. 3102(g)(1). Moreover, the OCC has discretion in structuring the form and terms of the CED agreement. The IBA provides that ''[t]he deposit shall be maintained with any such member bank pursuant to a deposit agreement in such form and containing such limitations and conditions as the Comptroller may prescribe.'' 12 U.S.C. 3102(g)(3). More generally, the OCC has the authority to issue appropriate rules, regulations, and orders for the establishment and administration of Federal branches. *See* 12 U.S.C. 3102(b) and 3108(a).

These revisions will reduce regulatory burden by providing foreign banks with greater flexibility in complying with the CED requirements.

While the location of a national bank varies from statute to statute and may be different for different purposes, 12 U.S.C. 81 provides that the general business of each national banking association shall be transacted at its main office and its branch or branches. Under the proposal, the term ''located'' in the statutory language describing a CED depository bank is construed, consistently with § 81, to mean the state in which the depository bank has its main office or a branch. However, because a Federal branch or agency is not a separate corporate entity, it does not have a main office or branches. As a result and by analogy to 12 U.S.C. 81 and consistent with national treatment, the proposal provides that a Federal branch or agency is located in the state in which it is licensed and in the parent foreign bank's home state for purposes of maintaining a CED account.

If the change in the licensing procedures described above is adopted, all Federal branches and agencies of a foreign bank may, under certain conditions, be licensed in only one state, which may be different from the foreign bank's home state. In such a situation, the proposal would provide foreign banks with more flexibility in determining where to deposit the consolidated CED if the foreign bank elects to consolidate some or all of these deposits.

In providing for a consolidated CED account, the proposal is consistent with existing provisions of part 28. For example, § 28.15(a)(2) already permits a foreign bank to combine the CEDs of its federally licensed offices in the same state into one account at the depository bank. Part 28 further requires that a ''foreign bank with more than one Federal branch or agency in a state shall designate one of those offices to maintain consolidated asset, liability, and capital equivalency accounts for all Federal branches or agencies in that state.'' 12 CFR 28.18(c)(2). This proposal is also consistent with the national treatment purpose of the IBA and serves to reduce regulatory burden. Permitting a foreign bank to consolidate its CED accounts should provide foreign banks with more flexibility in structuring their U.S. operations and would reduce unnecessary costs in maintaining multiple accounts.

The aggregate amount of the CED for all of the foreign bank's Federal branches and agencies would not change under the proposal and, thus, there would be no diminution in the foreign bank's combined amount of CED assets that it is required by law to maintain. Moreover, the OCC's authority to require an increase in the CED for a particular Federal branch or agency would not be affected.

To ensure that creditors are protected,[7] a corresponding change would be made to § 28.18 (described below) to require that a foreign bank that consolidates its CEDs in accordance with this new paragraph § 28.12(d)(2) must designate a Federal branch or agency to maintain consolidated asset, liability, and capital equivalency account information for all of the Federal branches and agencies that are covered by the consolidated deposit. This is similar to the requirement in § 28.18(c)(2) that applies to consolidated CED accounts in one state. This approach also is consistent with other provisions in part 28 requiring a foreign bank to ''designate one Federal branch or agency office in the United States to maintain consolidated information so that the OCC can monitor compliance.'' *See* 12 CFR 28.14(c).

The OCC invites comment on the CED proposals and specifically seeks comments on possible ways for ensuring that a consolidated CED account contains sufficient assets to cover the operations of all participating Federal branches and agencies. Should the account contain segregated assets to cover specific offices, or would it be sufficient for the account to contain a consolidated amount large enough to cover the operations of all the individual offices?

The OCC invites comments on other ways in which the CED requirement could be modified to further reduce regulatory burden consistent with maintaining the safe and sound operations of Federal branches and agencies in the United States.

11. Deposit-taking by an Uninsured Federal Branch (revised § 28.16(b)(8))

The proposed rule makes a technical correction to paragraph (b)(8) to correct the citation to the FRB's Regulation K.

[7] The legislative history of the IBA does not expressly explain the CED requirement, but it indicates that one reason for including such a provision was a concern about the availability of assets for local creditors in the event that a foreign bank became insolvent. *See* International Banking Act of 1978, Hearings on HR 10899 Before the Subcommittee on Financial Institutions Supervision of the Committee on Banking, Housing and Urban Affairs, 95th Cong., 1st Sess. 118–19 (1977) (statement of Hon. Stephen S. Garner, Vice Chairman, Board of Governors of the Federal Reserve System and Proposed Amendments to H.R. 7325, the International Banking Act of 1977).

12. Maintenance of Accounts, Books, and Records (new § 28.18(c)(3))

As described above, the proposed new § 28.18(c)(3) requires a foreign bank that has interstate Federal branches or agencies and combines its CEDs into one account to designate one of its Federal offices to maintain consolidated information about the Federal branches and agencies covered by the CEDs.

13. Maintenance of Assets (revised § 28.20(a)(2))

The OCC may impose asset maintenance requirements on a foreign bank to hold certain assets in the state in which its Federal branch or agency is located if necessary for prudential, supervisory, or enforcement reasons. 12 CFR 28.20(a)(1). These requirements are in addition to the CED requirements but, in determining compliance with any asset maintenance requirements imposed by the OCC, the OCC must give credit to the amount of assets held in the CED and other reserves or assets required under the IBA. 12 U.S.C. 3102(g)(4).

The proposed revision of § 28.20(a)(2) deletes the requirement that, if the OCC requires asset maintenance, the amount of assets held by the foreign bank cannot be less than 105% of the aggregate amount of liabilities of the Federal branch or agency, payable at or through the Federal branch or agency. Under the proposed rule, the amount of assets would be prescribed by the OCC and there would be no set minimum. This change would give the OCC more discretion to apply its asset maintenance authority on a risk-based basis to ensure the safe and sound operations of Federal branches and agencies.

14. Voluntary Liquidation (revised § 28.22(a) and (b))

The voluntary liquidation provisions of part 28 currently cross-reference part 5 and the Comptroller's Licensing Manual and impose certain specific requirements. The proposed revisions to § 28.22 retain the current procedures and cross references (with specific reference to the Licensing Manual's qualifications and procedures for a voluntary expedited liquidation of an insured Federal branch) for voluntary liquidations if the Federal branches and agencies being liquidated are the foreign bank's only Federal branches and agencies in the United States. The proposal eliminates the additional unnecessary requirements currently in the regulation but retains the requirement that a foreign bank publish notice of the impending closure. The

proposal, however, replaces the current requirement for 30-days' notice with a requirement for 2 months' daily notice in order to conform with the statutory notice requirement that applies to national banks that are voluntarily closing.[8]

15. Procedures for Closing Some U.S. Offices (new § 28.23)

If a foreign bank operates more than one Federal branch or agency in the United States and is closing some but not all of its Federal offices, the proposed rule, at new § 28.23, treats the closing like the closing of a domestic national bank branch. Domestic national banks must satisfy the requirements of 12 U.S.C. 1831r–1 (90 days notice to the OCC and customers). This change would be consistent with the IBA's national treatment standard and safety and soundness.

16. After-the-fact Notice of Change in Control (new § 28.25)

Currently, part 28 is silent on what requirements exist and what filings are required for changes in control in a foreign bank that operates a Federal branch or agency. The OCC's Licensing Manual, however, requires the foreign bank to submit a copy of the change in control notice it files with the FRB to the OCC.

The proposed rule adds a new § 28.24. This new section applies to changes in control in which no other filing is required under part 28 and requires a foreign bank to submit a written notice to the OCC of a change in control of the foreign bank within 14 days after the foreign bank becomes aware of the change. The OCC reserves the right to require additional information. A foreign bank may provide its supervisory office with the copy of a notice submitted to another Federal regulator to satisfy the requirements of this section. *See* 12 CFR 28.3(b).

17. Loan Production Offices (new § 28.26)

Part 28 is also silent on the issue of whether a foreign bank may operate a loan production office (LPO) or other administrative office or regional administrative office as part of its license to operate a Federal branch in the United States. Consistent with the OCC's precedents on this issue and national treatment, the proposed rule specifically states that, like a national bank, a Federal branch may operate an LPO, or an administrative office or a regional administrative office that conducts other types of representational activities, as part of a branch license. These activities would be subject to the same rights, privileges, requirements, and limitations that apply to LPOs and other administrative offices of national banks. Since national banks may conduct these activities and exercise these functions at non-branch locations as part of the business of banking, a Federal branch may also do so since, as a general rule, it operates with the same rights and duties of a national bank. 12 U.S.C. 3102(b). The OCC believes that these activities and functions are illustrative—and not exhaustive—of the types of non-branch offices that Federal branches may operate.

Request for Comments

The OCC invites comment on all aspects of the proposed regulation.

Solicitation of Comments on Use of Plain Language

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

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

Community Bank Comment Request

In addition, we invite your comments on the impact of this proposal on community banks. The OCC recognizes that community banks operate with more limited resources than larger institutions and may present a different risk profile. Thus, the OCC specifically requests comments on the impact of this proposal on community banks' current resources and available personnel with the requisite expertise, and whether the goals of the proposed regulation could be achieved, for community banks, through an alternative approach.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b) (RFA), the regulatory flexibility analysis otherwise required under section 604 of the RFA is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** along with its rule.

Pursuant to section 605(b) of the RFA, the OCC hereby certifies that this proposal will not have a significant economic impact on a substantial number of small entities. Specifically the proposed rule will reduce burden by: (1) Streamlining procedures for national banks' foreign operations through branches; (2) eliminating the requirement to file an application with the OCC in certain circumstances when a foreign bank downgrades its U.S. operations; (3) requiring approval, but not a new license, for additional Federal branches or agencies opened after the establishment of the initial branch office; and (4) clarifying that a foreign bank with Federal branches and agencies in more than one state may consolidate its capital equivalency deposits in one deposit account in a depository bank that satisfies certain criteria. These revisions will result in cost reductions for national banks and for the U.S. operations of Federal branches and agencies of foreign banks. Accordingly, a regulatory flexibility analysis is not needed.

Executive Order 12866

The OCC has determined that this proposal is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the proposed rule will not result in expenditures by State, local, and tribal governments, or by the

[8] 12 U.S.C. 182.

private sector, of $100 million or more in any one year. Accordingly, this rulemaking is not subject to section 202 of the Unfunded Mandates Act.

Paperwork Reduction Act

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

The information collection requirements contained in this notice of proposed rulemaking have been submitted to OMB for review and approval under OMB Control Number 1557–0014 (Comptroller's Licensing Manual) and OMB Control Number 1557–0102 (International Regulation—12 CFR 28).

The information collection requirements contained in this notice of proposed rulemaking that are covered under the Comptroller's Licensing Manual (Manual) information collection are found in 12 CFR 5.36, 28.12, 28.22, and 28.25.

The Manual embodies all required procedures, forms, and regulations regarding OCC corporate approvals. The Manual is needed to standardize OCC processing of corporate filings, to ensure consistency in the recordkeeping and decision making processes, and provide information to banks on corporate application filing procedures and regulatory requirements affecting corporate changes. The Manual is the primary procedural guide for OCC personnel.

The information collection requirements contained in this notice of proposed rulemaking that are covered under the information collection titled, ''International Banking Regulation—12 CFR 28'' are found in 12 CFR 28.3.

The information collection requirements are necessary to comply with the requirements of the International Banking Act of 1978, the Foreign Bank Supervision Enhancement Act of 1991, and to maintain the safety and soundness of national bank operations in the United States and abroad.

The information collection requirements are as follows:

12 CFR 5.36 permits a well-capitalized, well-managed national bank to make certain non-controlling investments in an enterprise, directly or through its operating subsidiary, by filing a written notice to the OCC. The proposed rule adds a new paragraph to permit a well-capitalized and well-managed Federal branch to make non-controlling investments by filing a after-the-fact notice, in the same manner as a national bank.

The likely respondents are national banks.

Estimated number of respondents: 17.
Estimated number of responses: 17.
Average hours per response: 1 hour.
Estimated total burden hours: 17 hours.

12 CFR 28.3(a) requires a national bank to notify the OCC upon opening, closing, or relocating a foreign branch, whether or not a filing to the Board of Governors of the Federal Reserve System (FRB) is required under the FRB's rules governing the foreign operations of member banks and other U.S. banking organizations. The proposed rule amends § 28.3(a) to provide that no notice to the OCC is required if a national bank closes or relocates a foreign branch.

The likely respondents are national banks.

Estimated number of respondents: 45.
Estimated number of responses: 45.
Average hours per response: .5 hour.
Estimated total burden hours: 22.5 hours.

12 CFR 28.12(a)(1) requires a foreign bank to submit an application to, and obtain approval from, the OCC before it establishes a Federal branch or agency, or exercises fiduciary powers at a Federal branch.

The likely respondents are foreign banks.

Estimated number of respondents: 4.
Estimated number of responses: 4.
Average hours per response: 41 hours.
Estimated total burden hours: 164 hours.

New § 28.12(e)(2) requires a foreign bank to provide written notice to the OCC in cases where a foreign bank seeks to establish intrastate an additional Federal branch or agency.

The likely respondents are foreign banks.

Estimated number of respondents: 1.
Estimated number of responses: 1.
Average hours per response: 1 hour.
Estimated total burden hours: 1 hour.

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 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 the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Comments should be sent to:

Jessie Dunaway, Clearance Officer, Office of the Comptroller of the Currency, Legislative and Regulatory Activities Division, Attention: 1557–0014 & 1557–0102, 250 E Street, SW., Mailstop 8–4, Washington, DC 20219. Comments may also be sent by fax to (202) 874–4889 or by e-mail to *jessie.dunaway@occ.treas.gov.*

Joseph F. Lackey, Jr., Desk Officer, Office of Information and Regulatory Affairs, Attention: 1557–0014 & 1557–0102, Office of Management and Budget, Room 10235, Washington, DC 20503. Comments may also be sent by e-mail to *jlackeyj@omb.eop.gov.*

Executive Order 13132

Executive Order 13132 requires Federal agencies, including the OCC, to certify their compliance with that Order when they transmit to the Office of Management and Budget any draft final regulation that has Federalism implications. Under the Order, a regulation has Federalism implications if it has ''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.'' In the case of a regulation that has Federalism implications and that preempts state law, the Order imposes certain consultation requirements with state and local officials; requires publication in the preamble of a Federalism summary impact statement; and requires the OCC to make available to the Director of the Office of Management and Budget any written communications submitted by state and local officials. By the terms of the Order, these requirements apply to the extent that they are practicable and permitted by law and, to that extent, must be satisfied before the OCC promulgates a final regulation.

The OCC does not believe that the proposed rule has such Federalism implications.

List of Subjects

12 CFR Part 5

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 28

Foreign banking, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, parts 5 and 28 of chapter I of title 12 of the Code of Federal Regulations are proposed to be amended as follows:

PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

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

Authority: 12 U.S.C. 1 *et seq.*, 24a, 24(Seventh), 93a, and 3101 *et seq.*;

2. In § 5.3, paragraphs (c)(1) and (c)(4) are revised:

§ 5.3 Definitions.

* * * * *

(c) * * *

(1) The Licensing Department for all national bank subsidiaries of certain holding companies assigned to the Washington, DC, licensing unit;

(2) * * *

(3) * * *

(4) The licensing unit in the Northeastern District Office for Federal branches and agencies of foreign banks.

* * * * *

3. In § 5.36, a new paragraph (g) is added to read as follows:

§ 5.36 Other equity investments.

* * * * *

(g) *Non-controlling investments by Federal branches.* A Federal branch that satisfies the well capitalized and well managed standards in § 4.7(b)(1)(iii) and § 5.34(d)(3)(ii) may make a non-controlling investment in accordance with paragraph (e) of this section in the same manner, and subject to the same conditions and requirements as a national bank.[9]

4. In § 5.70:

a. Paragraph (c)(1) is removed;

b. Paragraphs (c)(2)(i) through (v) are redesignated as paragraphs (c)(1)(i) through (v);

c. Newly redesignated paragraphs (c)(1)(i), (iv), and (v) are revised;

d. New paragraph (c)(1)(vi) is added; and

e. New paragraph (c)(2) is added to read as follows:

§ 5.70 Federal branches and agencies.

* * * * *

(c) * * *

(1) * * *

(i) Open and conduct business through an initial or additional Federal branch or agency;

(ii) * * *

(iii) * * *

(iv) Convert a state branch or state agency operated by a foreign bank, or a commercial lending company controlled by a foreign bank, into a Federal branch or Federal agency;

(v) Relocate a Federal branch or agency within a state or from one state to another; or

(vi) Convert a Federal agency or a limited Federal branch into a Federal branch.

(2) Any reference to a Federal branch includes a limited Federal branch unless provided otherwise.

* * * * *

PART 28—INTERNATIONAL BANKING ACTIVITIES

5. The authority citation for part 28 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 24(Seventh), 93a, 161, 602, 1818, 3101 *et seq.*, and 3901 *et seq.*

6. In § 28.3, paragraphs (a)(1)(i) and (a)(2) are revised to read as follows:

§ 28.3 Filing requirements for foreign operations of a national bank:

(a) * * *

(1) * * *

(i) Establish or open a foreign branch;

(ii) * * *

(2) Opens a foreign branch, and no application or notice is required by the FRB for such transaction.

* * * * *

1. In § 28.5, paragraphs (a) and (b) are revised as follows:

§ 28.5 Filing of notice.

(a) *Where to file.* A national bank shall file any notice or submission required under this subpart with the appropriate supervisory office of the OCC.

(b) *Availability of forms.* Individual forms and instructions for filings are available from the appropriate supervisory office of the OCC.

8. In § 28.11:

a. Paragraph (d) is removed;

b. Paragraphs (e)–(z) are redesignated as paragraphs (d)–(y);

c. Newly redesignated paragraphs (f)(1), (4), and (5) are revised;

d. New paragraph (f)(6) is added; and

e. Newly redesignated paragraph (h) is revised to add a new sentence at the end to read as follows:

§ 28.11 Definitions.

* * * * *

(f) *Establish a Federal branch or agency* means to:

(1) Open and conduct business through an initial or additional Federal branch or agency;

(2) * * *

(3) * * *

(4) Convert a state branch or state agency operated by a foreign bank, or a commercial lending company controlled by a foreign bank, into a Federal branch or agency;

(5) Relocate a Federal branch or agency within a state or from one state to another; or

(6) Convert a Federal agency or a limited Federal branch into a Federal branch.

* * * * *

(h) * * * Unless otherwise provided, the references in this subpart B of part 28 to a Federal branch include a limited Federal branch.

* * * * *

9. In § 28.12:

a. Paragraphs (a) and (b)(5) are revised;

b. Paragraphs (e)(2) through (4) are redesignated as paragraphs (e)(4) through (6);

c. New paragraphs (e)(2) and (3) is added;

d. Newly redesignated paragraph (e)(4) is revised;

e. Paragraph (f) introductory text is revised;

f. Paragraphs (h) through (i) are redesignated as paragraphs (j) through (k);

g. New paragraphs (h) and (i) is added;

h. Newly redesignated paragraph (j) is revised; and

i. New paragraph (l) is added to read as follows:

§ 28.12 Approval of a Federal branch or agency.

(a) *Approval and licensing requirements*—(1) *General.* Except as otherwise provided in this section, a foreign bank shall submit an application to, and obtain prior approval from, the OCC before it:

(i) Establishes a Federal branch or agency; or

(ii) Exercises fiduciary powers at a Federal branch. (A foreign bank may submit an application to exercise fiduciary powers at the time of filing an application for a Federal branch or at any subsequent date.)

(2) *Licensing.* A foreign bank must receive a license from the OCC to open and operate its initial Federal office in the United States. A foreign bank that has a license to operate and is operating a full-service Federal branch will not be required to obtain a new license for any additional Federal offices, or to upgrade or downgrade its operations in an existing Federal office. A foreign bank that only has a license to operate and is operating a limited Federal branch or

[9] Federal branches also may be subject to requirements containted in the Board of Governors of the Federal Reserve System's Regulation K, 12 CFR part 211.

Federal agency will not be required to obtain a new license for any additional limited branches or agencies, or to convert a limited branch into an agency or an agency into a limited branch.

(b) * * *

(5) With respect to an application to establish an interstate branch or agency under 12 CFR 28.11(f)(1), whether the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor. The OCC, in its discretion, also may consider whether the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor in the case of any other application to establish a branch or agency.

* * * * *

(e) * * *

(1) * * *

(2) *Written notice for additional intrastate branches or agencies.* (i) In cases where a foreign bank seeks to establish intrastate an additional Federal branch or agency, the foreign bank shall provide written notice 45 days in advance of the establishment of the intrastate branch or agency.

(ii) The OCC may waive the 45-day period if immediate action is required by the circumstances of the intrastate branching. The OCC also may suspend the notice period or require an application if the notification raises significant policy or supervisory concerns.

(3) *Expedited approval procedures for interstate branches or agencies.* An application submitted by an eligible foreign bank to establish and operate a *de novo* Federal branch or agency in any state outside the home state of the foreign bank is deemed conditionally approved by the OCC as of the 45th day after the OCC receives the filing, unless the OCC notifies the bank prior to that date that the filing is not eligible for expedited review. In the event that the FRB has approved the application prior to the expiration of the period, then the OCC's approval shall be deemed a final approval.

(4) *Conversions.* An application submitted by an eligible foreign bank under 12 CFR 28.11(f)(4) or (f)(6) is deemed approved by the OCC as of the 30th day after the OCC receives the filing, unless the OCC notifies the bank prior to that date that the filing is not eligible for expedited review.

* * * * *

(f) *Eligible foreign bank.* For purposes of this section, a foreign bank is an eligible foreign bank if each Federal branch or agency of the foreign bank or, if the foreign bank has no Federal branches or agencies and is engaging in a conversion under 12 CFR 28.11(f)(4), each state branch or agency:

* * * * *

(h) *After-the-fact notice for eligible foreign banks:* Unless otherwise provided by the OCC, a foreign bank proposing to establish a Federal branch or agency through the acquisition of, or merger or consolidation with, a foreign bank that has an existing bank subsidiary, branch, or agency, may proceed with the transaction and provide after-the-fact notice to the OCC within 14 days of the transaction if:

(1) the resulting bank is an ''eligible foreign bank'' within the meaning of § 28.12(f); and

(2) no Federal branch established by the transaction is insured.

(i) *Contraction of operations.* A foreign bank shall provide written notice to the OCC within 10 days after converting a Federal branch into a limited Federal branch or Federal agency.

(j) *Procedures for approval.* A foreign bank shall file an application for approval pursuant to this section in accordance with 12 CFR part 5 and the Manual. The OCC reserves the right to adopt materially different procedures for a particular filing, or class of filings, pursuant to 12 CFR 5.2(b).

* * * * *

(k) * * *

(l) *Other applications accepted.* As provided in § 5.4(c), the OCC may accept an application or other filing submitted to another Federal agency that covers the proposed activity or transaction and contains substantially the same information as required by the OCC.

10. In § 28.15:

a. Paragraph (a)(1)(ii) is revised;

b. Paragraph (a)(1)(iv) is redesignated as (a)(1)(v);

c. New paragraph (a)(1)(iv) is added;

d. Newly redesignated (a)(1)(v) is revised;

e. New paragraph (a)(3) is added;

f. Paragraph (e) is redesignated as (f);

g. New paragraph (e) is added to read as follows:

§ 28.15 Capital equivalency deposits.

(a) * * *

(1) * * *

(i) * * *

(ii) United States dollar deposits payable in the United States or payable in any other G–10 country;

(iii) * * *

(iv) Repurchase agreements; or

(v) Other similar assets permitted by the OCC to qualify for the CED.

(2) * * *

(3) *Exceptions.* In determining the amount of the CED, the OCC excludes liabilities of an international banking facility (IBF) to third parties and of a branch of a foreign bank to an IBF. The OCC may exclude liabilities from repurchase agreements on a case-by-case basis.

* * * * *

(e) *Deposit and Consolidation of CED accounts.* A foreign bank with a Federal branch or agency shall deposit its CED into an account in a depository bank that is located, *i.e.*, has its main office or a branch, in the state in which the Federal branch or agency is licensed or in the state that is the parent bank's home state. A foreign bank with Federal branches or agencies in more than one state may consolidate some or all of its CEDs into one such account.

* * * * *

11. In § 28.16, paragraph (b)(8) is revised to read as follows:

§ 28.16 Deposit-taking by an uninsured Federal branch.

* * * * *

(b) * * *

(8) Persons who may deposit funds with an Edge corporation as provided in the FRB's Regulation K, 12 CFR 211.6, including persons engaged in certain international business activities; and

* * * * *

12. In § 28.18, a new paragraph (c)(3) is added to read as follows:

§ 28.18 Recordkeeping and reporting.

* * * * *

(c) * * *

(3) A foreign bank with a Federal branch or agency in more than one state that combines its CEDs into one account in accordance with 12 CFR 28.15(e) shall designate a participating Federal branch or agency to maintain consolidated asset, liability, and capital equivalency account information for all Federal branches and agencies covered by the consolidated deposit.

13. In § 28.20, the first sentence of paragraph (a)(2) is revised to read as follows:

§ 28.20 Maintenance of assets.

(a) * * *

(1) * * *

(2) If the OCC requires asset maintenance, the amount of assets held by a foreign bank shall be prescribed by the OCC after consideration of the aggregate amount of liabilities of the Federal branch or agency, payable at or through the Federal branch or agency. * * *

* * * * *

14. In § 28.22, paragraphs (a) and (b) are revised:

§ 28.22 Voluntary liquidation.

(a) *Procedures to close all Federal branches and agencies.* Unless otherwise provided, in cases in which a foreign bank proposes to close all of its Federal branches or agencies, the foreign bank shall comply with applicable requirements in 12 CFR 5.48 and the Manual, including requirements that apply to an expedited liquidation of an insured Federal branch.

(b) *Notice to customers and creditors.* A foreign bank shall publish notice of the impending closure of each Federal branch or agency for a period of two months in every issue of a local newspaper where the Federal branch or agency is located. If only weekly publication is available, the notice must be published for nine consecutive weeks.

* * * * *

15. Section 28.23 is redesignated as § 28.24 and a new § 28.23 is added to read as follows:

§ 28.23 Procedures for closing of some U.S. offices.

In cases where § 28.22 does not apply, and a foreign bank is closing one or more, but not all, of its Federal branches and/or agencies, it shall follow the procedures set forth in 12 U.S.C. 1831r–1(a) and (b) (branch closings).

* * * * *

16. A new § 28.25 is added to read as follows:

§ 28.25 Change in control.

(a) *After-the-fact notice.* In cases in which no other filing is required under subpart B of part 28, a foreign bank that operates a Federal branch or agency shall inform the OCC in writing of the direct or indirect acquisition of control of the foreign bank by any person or entity, or group of persons or entities acting in concert, within 14 calendar days after the foreign bank becomes aware of a change in control.

(b) *Additional information.* The foreign bank shall furnish the OCC with any additional information the OCC may require in connection with the acquisition of control.

17. A new § 28.26 is added to read as follows:

§ 28.26 Loan production offices.

As an integral part of its license to operate a Federal branch, a foreign bank may establish lending offices, make credit decisions, and engage in other representational activity at a place other than its branch office, subject to the same rights, privileges, requirements and limitations as apply to national banks under 12 CFR 7.1003–1005.

Dated: April 11, 2003.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 03–9733 Filed 4–22–03; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM248; Special Conditions No. 25–03–03–SC]

Special Conditions: Embraer Model ERJ–170 Series Airplanes; Electronic Flight Control Systems; Automatic Takeoff Thrust Control System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Embraer Model ERJ–170 series airplanes. These airplanes will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These design features are associated with electronic flight control systems and Automatic Takeoff Thrust Control Systems (ATTCS). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of Embraer Model 170 series airplanes.

DATES: Comments must be received on or before May 23, 2003.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM248, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM248. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Tom Groves, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–1503; facsimile (425) 227–1149; e-mail *tom.groves@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

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

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this notice between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

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

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

Background

On May 20, 1999, Embraer applied for a type certificate for its new Model ERJ–170 airplane. Two basic versions of the Model ERJ–170 are included in the application. The ERJ–170–100 airplane is a 69–78 passenger, twin-engine regional jet with a maximum takeoff weight of 81,240 pounds. The ERJ–170–200 is a derivative with a lengthened fuselage. Passenger capacity for the ERJ–170–200 is increased to 86, and maximum takeoff weight is increased to 85,960 pounds.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Embraer must show that the Model ERJ–

170 series airplanes meet the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–98.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety standards for Embraer Model ERJ–170 series airplanes because of novel or unusual design features, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, Embraer Model ERJ–170 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR 36, and the FAA must issue a finding of regulatory adequacy pursuant to § 611 of Public Law 93–574, the ''Noise Control Act of 1972.''

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.17(a)(2), Amendment 21–69, effective September 16, 1991.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design features, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1), Amendment 21–69, effective September 16, 1991.

Novel or Unusual Design Features

The Embraer Model ERJ–170 series airplanes will incorporate the following novel or unusual design features:

Electronic Flight Control System

In airplanes with electronic flight control systems, there may not always be a direct correlation between pilot control position and the associated airplane control surface position. Under certain circumstances, a commanded maneuver that does not require a large control input may require a large control surface movement, possibly encroaching on a control surface or actuation system limit without the flightcrew's knowledge. This situation can arise in either manually piloted or autopilot flight and may be further exacerbated on airplanes where the pilot controls are not back-driven during autopilot system operation. Unless the flightcrew is made aware of excessive deflection or impending control surface limiting, control of the airplane by the pilot or autoflight system may be inadvertently continued so as to cause loss of control of the airplane or other unsafe characteristics of stability or performance.

Given these possibilities, a special condition is proposed for Embraer Model ERJ–170 series airplanes to address control surface position awareness. This special condition would require that suitable display or annunciation of flight control position be provided to the flightcrew when near full surface authority (not crew-commanded) is being used, unless other existing indications are found adequate or sufficient to prompt any required crew actions. Suitability of such a display or annunciation must take into account that some piloted maneuvers may demand the airplane's maximum performance capability, possibly associated with a full control surface deflection. Therefore, simple display systems—that would function in both intended and unexpected control-limiting situations—must be properly balanced to provide needed crew awareness and minimize nuisance alerts. A monitoring system that compares airplane motion, surface deflection, and pilot demand could be useful in eliminating nuisance alerting.

Automatic Takeoff Thrust Control System (ATTCS)

The Embraer Model ERJ–170 series airplane will incorporate an Automatic Takeoff Thrust Control System (ATTCS) in the engine's Full Authority Digital Electronic Control (FADEC) system architecture. It has been proposed that the FAA allow performance credit to be taken for use of this function during go-around to show compliance with the requirement of § 25.121(d) regarding the approach climb gradient.

Section 25.904 and Appendix I refer to operation of ATTCS only during takeoff. Model ERJ–170 series airplanes have this feature for go-around also. The ATTCS will automatically increase thrust to the maximum go-around thrust available under the ambient conditions in the following circumstances:

- If an engine failure occurs during an all-engines-operating go-around, or
- If an engine has failed or been shut down earlier in the flight.

This maximum go-around thrust is the same as that used to show compliance with the approach-climb-gradient requirement of § 25.121(d). If the ATTCS is not operating, selection of go-around thrust will result in a lower thrust level.

The part 25 standards for ATTCS, contained in § 25.904 [Automatic takeoff thrust control system (ATTCS) and Appendix I], specifically restrict performance credit for ATTCS to takeoff. Expanding the scope of the standards to include other phases of flight, such as go-around, was considered when the standards were issued but was not accepted because of the effect on the flightcrew's workload. As stated in the preamble to amendment 25–62:

> In regard to ATTCS credit for approach climb and go-around maneuvers, current regulations preclude a higher thrust for the approach climb [§ 25.121(d)] than for the landing climb [§ 25.119]. The workload required for the flightcrew to monitor and select from multiple in-flight thrust settings in the event of an engine failure during a critical point in the approach, landing, or go-around operations is excessive. Therefore, the FAA does not agree that the scope of the amendment should be changed to include the use of ATTCS for anything except the takeoff phase. (Refer to 52 FR 43153, November 9, 1987.)

The ATTCS incorporated on Embraer Model ERJ–170 series airplanes allows the pilot to use the same power setting procedure during a go-around, regardless of whether or not an engine fails. In either case, the pilot obtains go-around power by moving the throttles into the forward (takeoff/go-around) throttle detent. Since the ATTCS is permanently armed for the go-around phase, it will function automatically following an engine failure and advance the remaining engine to the ATTCS thrust level. This design adequately addresses the concerns about pilot workload which were discussed in the preamble to amendment 25–62.

The system design allows the pilot to enable or disable the ATTCS function for takeoff. If the pilot enables ATTCS, a white ''ATTCS'' icon will be displayed on the Engine Indication and Crew Alerting System (EICAS) beneath the thrust mode indication on the display. This white icon indicates to the pilot that the ATTCS function is enabled. When the throttle lever is put in the TO/GA (takeoff/go-around) detent position, the white icon turns green, indicating to the pilot that the ATTCS is armed. If the pilot disables the ATTCS function for takeoff, no indication appears on the EICAS.

Regardless of whether the ATTCS is enabled for takeoff, it is automatically enabled when the airplane reaches the end of the take-off phase (that is, the thrust lever is below the TO/GA position and the altitude is greater than 1,700 feet above the ground, 5 minutes have elapsed since lift-off, or the

airplane speed is greater than 140 knots).

During climb, cruise and descent, when the throttle is not in the TO/GA position, the ATTCS indication is inhibited. During descent and approach to land, until the thrust management system go-around mode is enabled—either by crew action or automatically when the landing gear are down and locked and flaps are extended—the ATTCS indication remains inhibited.

When the go-around thrust mode is enabled, unless the ATTCS system has failed, the white ''ATTCS'' icon will again be shown on the EICAS, indicating to the pilot that the system is enabled and in an operative condition in the event a go-around is necessary. If the thrust lever is subsequently placed in the TO/GA position, the ATTCS icon turns green, indicating that the system is armed and ready to operate.

If an engine fails during the go-around or during a one-engine-inoperative go-around in which an engine had been shut down or otherwise made inoperative earlier in the flight, the EICAS indication will be GA RSV (go-around reserve) when the thrust levers are placed in the TO/GA position. The GA RSV indication means that the maximum go-around thrust under the ambient conditions has been commanded.

These special conditions would require a showing of compliance with the provisions of § 25.904 and Appendix I applicable to the approach climb and go-around maneuvers.

The definition of a critical time interval for the approach climb case is of primary importance. During this time it must be extremely improbable to violate a flight path derived from the gradient requirement of § 25.121(d). That gradient requirement implies a minimum one-engine-inoperative flight path with the airplane in the approach configuration. The engine may have been inoperative before initiating the go-around, or it may become inoperative during the go-around. The definition of the critical time interval must consider both possibilities.

Applicability

As discussed above, these special conditions are applicable to the Embraer Model ERJ–170 series airplanes. Should Embraer apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1), Amendment 21–69, effective September 16, 1991.

Conclusion

This action affects only certain novel or unusual design features on the Embraer Model ERJ–170 series airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Embraer Model ERJ–170 series airplanes.

Electronic Flight Control System

In addition to compliance with §§ 25.143, 25.671 and 25.672, when a flight condition exists where, without being commanded by the crew, control surfaces are coming so close to their limits that return to the normal flight envelope and (or) continuation of safe flight requires a specific crew action, a suitable flight control position annunciation shall be provided to the crew, unless other existing indications are found adequate or sufficient to prompt that action. Note: The term suitable also indicates an appropriate balance between nuisance and necessary operation.

Automatic Takeoff Thrust Control System (ATTCS)

To use the thrust provided by the ATTCS to determine the approach climb performance limitations, the Embraer Model ERJ–170 series airplane must comply with the requirements of § 25.904 and Appendix I, including the following requirements pertaining to the go-around phase of flight:

1. Definitions.

(a) *TOGA—(Take Off/Go-Around).* Throttle lever in takeoff or go-around position.

(b) *Automatic Takeoff Thrust Control System—(ATTCS).* The Embraer Model ERJ–170 series ATTCS is defined as the entire automatic system available in takeoff when selected by the pilot and always in go-around mode; including all devices, both mechanical and electrical, that sense engine failure, transmit signals, and actuate fuel controls or power levers or increase engine power by other means on operating engines to achieve scheduled thrust or power increases and to furnish cockpit information on system operation.

(c) *Critical Time Interval.* The definition of the Critical Time Interval in appendix I, § I25.2(b) shall be expanded to include the following:

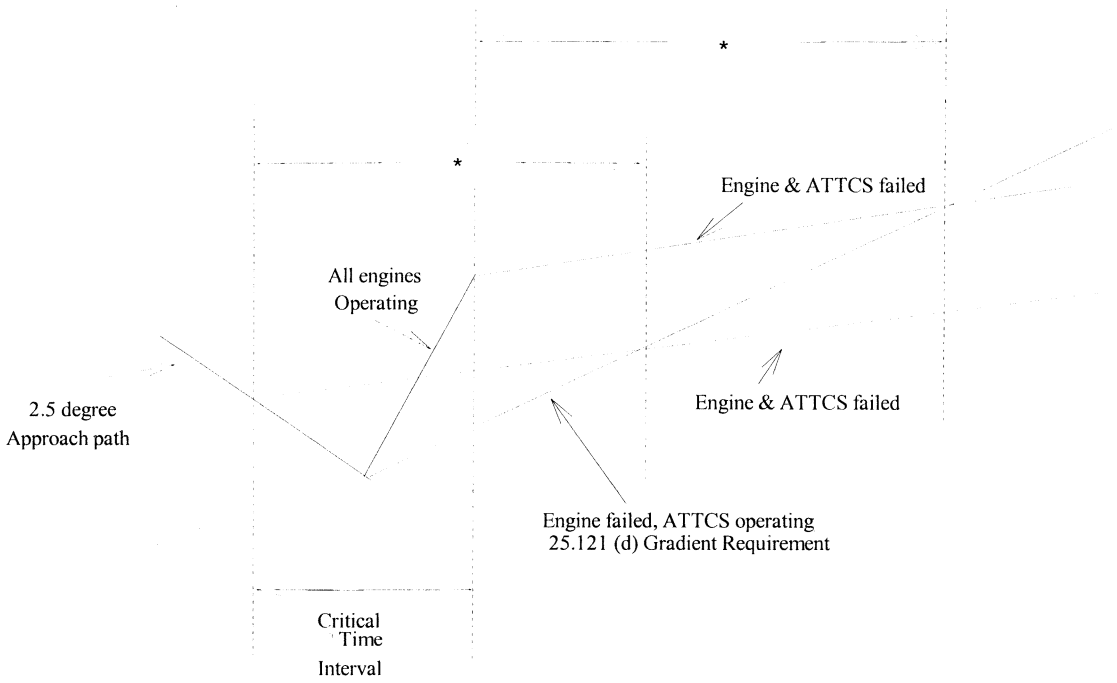
(1) When conducting an approach for landing using ATTCS, the critical time interval is defined as 120 seconds. A shorter time interval may be used if justified by a rational analysis. An accepted analysis that has been used on past aircraft certification programs is as follows:

(i) The critical time interval *begins* at a point on a 2.5 degree approach glide path from which, assuming a simultaneous engine and ATTCS failure, the resulting approach climb flight path intersects a flight path originating at a later point on the same approach path corresponding to the part 25 one-engine-inoperative approach climb gradient. The period of time from the point of simultaneous engine and ATTCS failure to the intersection of these flight paths must be no shorter than the time interval used in evaluating the critical time interval for takeoff, beginning from the point of simultaneous engine and ATTCS failure and ending upon reaching a height of 400 feet.

(ii) The critical time interval *ends* at the point on a minimum performance, all-engines-operating go-around flight path from which, assuming a simultaneous engine and ATTCS failure, the resulting minimum approach climb flight path intersects a flight path corresponding to the part 25 minimum one-engine-inoperative approach-climb-gradient. The all-engines-operating go-around flight path and the part 25 one-engine-inoperative, approach-climb-gradient flight path originate from a common point on a 2.5 degree approach path. The period of time from the point of simultaneous engine and ATTCS failure to the intersection of these flight paths must be no shorter than the time interval used in evaluating the critical time interval for the takeoff beginning from the point of simultaneous engine and ATTCS failure and ending upon reaching a height of 400 feet.

(2) The critical time interval must be determined at the altitude resulting in the longest critical time interval for which one-engine-inoperative approach climb performance data are presented in the Airplane Flight Manual (AFM).

(3) The critical time interval is illustrated in the following figure:



The engine and ATTCS failed time interval must be no shorter than the time interval from the point of simultaneous engine and ATTCS failure to a height of 400 feet used to comply with I25.2(b) for ATTCS use during takeoff.

2. Performance and System Reliability Requirements.

The applicant must comply with the following performance and ATTCS reliability requirements:

(a) An ATTCS failure or combination of failures in the ATTCS during the critical time interval:

(1) Shall not prevent the insertion of the maximum approved go-around thrust or power or must be shown to be an improbable event.

(2) Shall not result in a significant loss or reduction in thrust or power or must be shown to be an extremely improbable event.

(b) The concurrent existence of an ATTCS failure and an engine failure during the critical time interval must be shown to be extremely improbable.

(c) All applicable performance requirements of Part 25 must be met with an engine failure occurring at the most critical point during go-around with the ATTCS system functioning.

(d) The probability analysis must include consideration of ATTCS failure occurring after the time at which the flightcrew last verifies that the ATTCS is in a condition to operate until the beginning of the critical time interval.

3. Thrust Setting.

(a) The initial go-around thrust setting on each engine at the beginning of the go-around phase may not be less than any of the following:

(1) That required to permit normal operation of all safety-related systems and equipment dependent upon engine thrust or power lever position; or

(2) That shown to be free of hazardous engine response characteristics when thrust or power is advanced from the initial go-around position to the maximum approved power setting.

(b) For approval of an ATTCS system for go-around, the thrust setting procedure must be the same for go-arounds initiated with all engines operating as for go-arounds initiated with one engine inoperative.

4. Powerplant Controls.

(a) In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATTCS, including associated systems, may cause the failure of any powerplant function necessary for safety.

(b) The ATTCS must be designed to accomplish the following:

(1) Following any single engine failure during go around: Apply thrust or power on the operating engine(s) to achieve the maximum approved go-around thrust without exceeding engine operating limits;

(2) Permit manual decrease or increase in thrust or power up to the maximum go-around thrust approved for the airplane under existing conditions through the use of the power lever. For airplanes equipped with limiters that automatically prevent engine operating limits from being exceeded under existing ambient conditions, other means may be used to increase the thrust in the event of an ATTCS failure. Any such means must be located on or forward of the power levers; be easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers, and meet the requirements of § 25.777 (a), (b), and (c);

(3) Provide a means to verify to the flightcrew before beginning an approach for landing that the ATTCS is in a condition to operate (unless it can be demonstrated that an ATTCS failure combined with an engine failure during an entire flight is extremely improbable); and

(4) Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation.

5. In addition to the requirements of § 25.1305, the following requirements pertaining to powerplant instruments must be met:

(a) A means must be provided to indicate when the ATTCS is in the armed or ready condition; and

(b) If the inherent flight characteristics of the airplane do not provide adequate warning that an engine has failed, a warning system that is independent of the ATTCS must be provided to give the pilot a clear warning of any engine failure during go-around.

Issued in Renton, Washington, on April 14, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–10045 Filed 4–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NE–01–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D–7R4 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to supersede an existing airworthiness directive (AD) that is applicable to Pratt & Whitney (PW) JT9D–7R4 series turbofan engines. That AD currently requires modifications of the fan case assembly by installing a thicker one-piece fan case shield, and modifications of the outer front fan exit case assembly by installing ring segments. This proposal would require on JT9D–7R4 series turbofan engines with steel fan cases, replacement of the existing one-piece fan case shield with a thicker four-piece fan case shield and would add four fan case shield supports. This proposal is prompted by two uncontained full fan blade fracture events that resulted in penetration of the steel fan case and fan case shield. The actions specified by the proposed AD are intended to prevent uncontained fan blade failures, resulting in damage to the airplane.

DATES: Comments must be received by June 23, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–NE–01–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line.

FOR FURTHER INFORMATION CONTACT: Keith Lardie, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7189; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2003–NE–01–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–NE–01–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On August 3, 1989, the FAA issued airworthiness directive (AD) 87–23–05R1, Amendment 39–6296 (55 FR 5594, February 16, 1990), to mandate the incorporation of a thicker fan case shield for all JT9D–7R4 series turbofan engine fan cases, before December 31, 1990. That action was prompted by reports of failed fan blades that penetrated the fan case shield after penetrating the fan case. Engines with fan cases made of titanium do not require thicker fan case shields because the titanium fan case and existing shield contains failed blades, and therefore are not affected by this proposal.

Since that AD was issued, two reports of uncontained fan blade failures that penetrated fan case shields were received, in November 1991 and June 2000. Subsequent ground inspections revealed that in each event a fan blade fractured in the root of the blade airfoil, and exited the engine through the fan case shield. These two uncontained engine failures have shown that the thicker fan case shield mandated by AD 87–23–05R1 is insufficient for containing failed fan blades on engines with steel fan cases. This condition, if not corrected, could result in uncontained fan blade failures, resulting in damage to the airplane.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other PW JT9D–7R4 series turbofan engines of the same type design, the proposed AD would supersede AD 87–23–05R1 to require on engines with steel fan cases, replacing existing fan case shields with thicker four-piece fan case shields, and adding fan case shield supports.

Economic Analysis

There are approximately 309 JT9D–7R4 series turbofan engines with steel fan cases, of the affected design in the worldwide fleet. The FAA estimates that 155 engines installed on PW JT9D–7R4 series turbofan engines of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately 16.6 work hours per engine to perform the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $3,675 per engine. Based on these figures, the total cost of the proposed AD to U.S. operators is estimated to be $724,005.

Regulatory Analysis

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–6296, (55 FR 5594, February 16, 1990), and by adding a new airworthiness directive:

Pratt & Whitney: Docket No. 2003–NE–01–AD.

Applicability: This airworthiness directive (AD) is applicable to Pratt & Whitney (PW) JT9D–7R4D, –7R4D1, –7R4E, –7R4E1, –7R4E4, –7R4G2, and –7R4H1 turbofan engines with steel fan cases. These engines are installed on, but not limited to Airbus Industrie A300 and A310, and Boeing 747 and 767 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 at the next engine overhaul where access to the fan case aft containment area is available, but no later than December 31, 2012, unless already done.

To prevent uncontained fan blade failures, resulting in damage to the airplane, do the following:

(a) For PW JT9D–7R4D, –7R4D1, –7R4E, –7R4E1, –7R4E4, and –7R4H1 turbofan engines with steel fan cases that have PW service bulletin (SB) 72–312 incorporated, replace fan case shield part number (P/N) 802095 with the four-piece fan case shield and install four fan case shield supports. Information on replacing fan case shields and installing fan case shield supports can be found PW SB JT9D–7R4–72–583, dated December 12, 2002.

(b) For PW JT9D–7R4G2 turbofan engines with steel fan cases that have PW SB 72–88 and PW SB 72–311 incorporated, replace fan case shield P/N 802094 with the four-piece fan case shield and install four fan case shield supports. Information on replacing fan case shields and installing fan case shield supports can be found in Part A of PW SB JT9D–7R4–72–584, dated December 12, 2002.

(c) For PW JT9D–7R4G2 turbofan engines with steel fan cases that do not have PW SB 72–88 incorporated, but have PW SB 72–311 incorporated, replace fan case shield P/N 802094 with the four-piece fan case shield and install four fan case shield supports. Information on replacing fan case shields and installing fan case shield supports can be found in Part B of PW SB JT9D–7R4–72–584, dated December 12, 2002.

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 airplane to a location where the requirements of this AD can be done.

Issued in Burlington, Massachusetts, on April 17, 2003.

Francis A. Favara,

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

[FR Doc. 03–9984 Filed 4–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–51–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of the comment period.

SUMMARY: This document proposes to revise an earlier proposed airworthiness directive (AD) that would apply to all Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. The earlier NPRM would have required you to repetitively replace the nose landing gear (NLG) drag link right-hand part every 4,000 landings until an improved design NLG drag link right-hand part is installed. This earlier proposed AD would also have required you to install an improved design NLG drag link right-hand part as terminating action for the repetitive replacements. The earlier NPRM resulted from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The manufacturer has established a more restrictive factor that is a better approximation of the fleet usage. Since this action imposes an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on this additional action.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before June 2, 2003.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–51–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9–ACE–7–Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 2002–CE–51–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Work 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the proposed rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of this proposed AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How can I be sure FAA receives my comment? If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2002–CE–51–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA that an unsafe condition may exist on certain Pilatus Models PC–12 and PC–12/45 airplanes. The FOCA reports that 3 aircraft experienced a failure of the nose landing gear (NLG) drag link assembly during cruise flight. The actuator attachment levers on the right-hand upper drag link part failed. In all cases, the NLG fell out due to gravity, and the emergency spring pack extended it forward and allowed safe landings

What are the consequences if the condition is not corrected? Structural failure of the NLG drag link right-hand part could result in either an unintended NLG extension during flight or the NLG not properly locking upon extension. This could lead to loss of airplane control during landing operations.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Pilatus Models PC–12 and PC–12/45 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on December 18, 2002 (67 FR 77442). The NPRM proposed to require you to repetitively replace the nose landing gear (NLG) drag link right-hand part every 4,000 landings until an improved design NLG drag link right-hand part is installed. The NPRM also proposed to require you to install an improved design NLG drag link right-hand part as terminating action for the repetitive replacements.

You would have to accomplish the proposed actions in accordance with Service Bulletin No. 32–014, dated August 13, 2002.

Comment Issue No. 1: Landings Factor

What is the commenter's concern? The commenter requests correction of the proposed unknown landings factor (multiply time-in-service (TIS) by 0.5). The commenter explains that Pilatus has established for the Model PC–12 a factor of 45 minutes per landing (TIS divided by 0.75). Pilatus published this factor in Pilatus Aircraft Ltd. Service Bulletin 27–005, dated November 18, 1998, and the FOCA has approved this factor.

What is FAA's response to the concern? We concur with the commenter. Because revising this factor could increase the burden upon those owners/operators who do not keep track of landings, we will reopen the comment period and issue a supplemental NPRM.

Comment Issue No. 2: Correct Version of Temporary Revision No. 32–14

What is the commenter's concern? The commenter notes that there are two versions of Pilatus Maintenance Manual (MM) Temporary Revision No. 32–14, both dated June 4, 2002. However, neither is referenced differently, except that the older version has eight pages and the current version has seven pages. The current seven-paged version is the version that was forwarded by the FOCA. This current version shows revision bars on pages 4, 6, and 7. The commenter requests identifying Temporary Revision No. 32–14 with seven pages as the correct version to use for the AD.

What is FAA's response to the concern? We concur with the commenter and will note the correct version to use.

The Supplemental NPRM

How will the changes to the NPRM impact the public? The more restrictive unknown landings factor (0.75) goes beyond the scope of what was earlier proposed and imposes a greater burden on the public. Therefore, we are issuing a supplemental NPRM and reopening the comment period to allow the public additional time to comment.

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

Cost Impact

How many airplanes would this proposed AD impact? We estimate that this proposed AD affects 265 airplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish the proposed replacement with the same design part:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
6 workhours × $60 per hour = $360	$1,000	$1,360	$1,360 × 265 = $360,400.

We estimate the following costs to accomplish the proposed replacement with the improved design part:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
6 workhours × $60 per hour = $360	$2,200	$2,560	$2,560 × 265 = $678,400.

Compliance Time of This Proposed AD

What would be the compliance time of this proposed AD? The compliance time of this proposed AD is based on the number of landings rather than hours TIS.

Why is the compliance time of this proposed AD presented in landings? The reason for this type of compliance is that the area that is showing fatigue is the NLG drag link right-hand part. This area of the airplane is used during the landing operation. We have determined to base the compliance time for this proposed AD upon the number of landings.

Since airplane operators are not required to keep track of landings, we will provide a method of calculating hours TIS into landings.

Regulatory Impact

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

Would this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed action (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Pilatus Aircraft Ltd.: Docket No. 2002–CE–51–AD

(a) *What airplanes are affected by this AD?* This AD affects Models PC–12 and PC–12/45 airplanes, all serial numbers, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent structural failure of the nose landing gear (NLG) caused by fatigue damage to the NLG drag link right-hand part that develops over time. Such failure could result in either an unintended NLG extension during flight or the NLG not properly locking upon extension, which could lead to loss of airplane control during landing operations.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Replace the nose landing gear (NLG) drag link right hand part, part number (P/N) 532.20.12.140 with: (i) the same P/N 532.20.12.140 or FAA-approved equivalent part number; or (ii) improved design NLG drag link right-hand part, P/N 532.20.12.289.	Upon the accumulation of 4,000 landings on the nose landing gear (NLG) drag link right-hand part or within the next 100 landings after the effective date of this AD, whichever occurs later. Incorporation of the improved-design NLG drag link brace is terminating action for this AD.	In accordance with Temporary Revision No. 32–14 (dated June 4, 2002, use version having seven pages) to Pilatus PC–12 Maintenance Manual 32–20–06.
(2) If replacement in paragraph (d)(1) is with the original style part, replace with: (i) the same P/N 532.20.12.140 or FAA-approved equivalent part number; or (ii) improved design NLG drag link right-hand part, P/N 532.20.12.289.	Upon the accumulation of 4,000 landings. Incorporation of improved-design NLG drag link brace is terminating action for this AD.	In accordance with Temporary Revision No. 32–14 (dated June 4, 2002, use version having seven pages) to Pilatus PC–12 Maintenance Manual 32–20–06.
(3) Unless already accomplished per paragraph (d)(1) or (d)(2), replace the NLG drag link right-hand part, P/N 532.20.12.140, with an improved design NLG drag link right-hand part, P/N 532.20.12.289 or FAA-approved equivalent part number. Installing the improved part terminates the repetitive replacement requirements of paragraph (d)(2) of this AD.	At the third replacement required in paragraph (d)(2) of this AD.	In accordance with Pilatus Aircraft Ltd. Service Bulletin No. 32–014, dated August 13, 2002, and the applicable maintenance manual.

Actions	Compliance	Procedures
(4) Do not install, on any affected airplane, an NLG drag link right-hand part that is not P/N 532.20.12.289 or FAA-approved equivalent part number.	When an improved P/N 532.20.12.289 NLG drag link part is installed after the effective date of this AD.	Not Applicable.

(e) *What if I do not keep track of landings?* The compliance times of this AD are presented in landings instead of hours time-in-service (TIS). If landings are not known, hours TIS may be used by dividing the numbers of hours TIS by the unknown landings factor (0.75).

Note 1: For the purposes of this AD, 3,000 hours TIS would be equivalent to 4,000 landings (3,000 hours/0.75 = 4,000 landings).

(f) *Can I comply with this AD in any other way?* To use an alternative method of compliance or adjust the compliance time, follow the procedures in 14 CFR 39.13. Send these requests to the Standards Office Manager, Small Airplane Directorate. Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090 for information on any already approved alternative methods of compliance.

(g) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in Swiss AD Number HB 2002–271, dated June 17, 2002.

Issued in Kansas City, Missouri, on April 15, 2003.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–9983 Filed 4–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR 7

The Negotiated Rule Making Advisory Committee for Off-Road Driving Regulations at Fire Island National Seashore; Notice of Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meetings of the Negotiated Rulemaking Committee.

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Negotiated Rule Making Advisory Committee for Off-Road Driving Regulations at Fire Island National Seashore (36 CFR 7.20)

DATES: The Committee members will meet on: Friday and Saturday May 9th and 10th, 2003.

The meetings will begin at 9 a.m. and will be held at Dowling College, Brookhaven Campus, New York.

Meetings will be held for the following reasons:

May 9, 2003—Friday

1. Discussion of proposed Agenda.
2. Discussion of Progress since Last Meeting.
3. Review of Proposed Draft Consensus Agreement.
4. Public Participation Period.
5. Adjournment.

May 10, 2003—Saturday

1. Continued Review of Draft Consensus Agreement.
2. Public Participation Period.
3. Vote on Draft Consensus Agreement.
4. Adjournment.

FOR FURTHER INFORMATION CONTACT: Superintendent, Fire Island National Seashore, 120 Lauren Street, Patchogue, New York 11772 (631) 289–4810 Ext. 225.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. It is expected that 25 persons will be able to attend the meeting in addition to the Committee members.

The Committee was established pursuant to the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561–570). The purpose of the Committee is to advise the National Park Service with regard to proposed rulemaking governing off-road vehicle use at Fire Island National Seashore.

Interested persons may make oral/written presentations to the Committee during the business meeting or file written statements. Such presentations may be made to the Committee during the public participation period the day of the meeting, or in writing to the Park Superintendent at least seven days prior to the meeting.

Barry Sullivan,

Acting Superintendent, Fire Island National Seashore.

[FR Doc. 03–10021 Filed 4–22–03; 8:45 am]

BILLING CODE 4310–70–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2002–4D]

Notice of Public Hearings: Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of Amended Hearing Dates.

SUMMARY: The Copyright Office of the Library of Congress will be adding two new days of public hearings in Washington, DC on the possible exemptions to the prohibition against circumvention of technological measures that control access to copyrighted works and has cancelled two previously scheduled dates.

DATES: Public hearings will be held in Washington, DC on Thursday, May 1, 2003, beginning at 2 p.m. and on Friday, May 9, 2003, beginning at 9:30 a.m. Public hearings previously scheduled for April 15 and April 30, 2003, have been cancelled. *See* **SUPPLEMENTARY INFORMATION** for additional information.

ADDRESSES: The Washington, DC public hearings will be held at the Postal Rate Commission, 1333 H Street, NW., Third Floor, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rob Kasunic, Senior Attorney, Office of the General Counsel, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone (202) 707–8380; fax (202); e-mail *rkas@loc.gov.*

SUPPLEMENTARY INFORMATION: As previously announced, *see* Notice of Public Hearings, 68 FR 13652 (March 20, 2003), and Notice of Public Hearings, 68 FR 15972 (April 2, 2003),

the Copyright Office of the Library of Congress is conducting public hearings in connection with its rulemaking pursuant to section 1201(a)(1) of the Copyright Act, 17 U.S.C. 1201(a)(1), which provides that the Librarian of Congress may exempt certain classes of works from the prohibition against circumventing a technological measure that controls access to a copyrighted work. For a more complete statement of the background and purpose of the rulemaking, please see Notice of Inquiry, 67 FR 63578 (October 15, 2002), and visit the Copyright Office's Web site at: *http://www.copyright.gov/1201/.*

The Office is modifying the schedule of public hearings. Hearings previously scheduled to take place in Washington, DC on April 15, 2003, and April 30, 2003, have been postponed and will now be held on May 1, 2003, at 2 p.m. and on May 9, 2003, at 9:30 a.m. Both hearings will be conducted at the Postal Rate Commission, 1333 H Street, NW., Third Floor, Washington, DC. A previously scheduled hearing will also be conducted at the Postal Rate Commission on May 2, 2003, at 9:30 a.m. As previously announced, hearings will also be conducted at the UCLA School of Law in Los Angeles, California on May 14–15, 2003, commencing at 9 a.m.

Dated: April 18, 2003.

David O. Carson,

General Counsel.

[FR Doc. 03–10039 Filed 4–22–03; 8:45 am]

BILLING CODE 1410–30–P

Notices

Federal Register

Vol. 68, No. 78

Wednesday, April 23, 2003

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

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Public Rights-of-Way Access Advisory Committee; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) established a Public Rights-of-Way Access Advisory Committee (Committee) to assist the Board in developing a proposed rule on accessibility guidelines for newly constructed and altered public rights-of-way covered by the Americans with Disabilities Act of 1990 and the Architectural Barriers Act of 1968. This document announces the next meeting of the technical assistance sub-committee of that Committee, which will be open to the public.

DATES: The meeting of the sub-committee is scheduled for May 4, 2003 (beginning at 2 p.m. and ending at 5 p.m.), May 5, 2003 (beginning at 9 a.m. and ending at 5 p.m.) and May 6, 2003 (beginning at 9 a.m. and ending at 12 noon).

ADDRESSES: The meeting will be held at the Great Lakes Disability and Business Technical Assistance Center, University of Illinois/Chicago, Department on Disability & Human Development, Room 168, 1640 West Roosevelt Road, Chicago, IL 60608.

FOR FURTHER INFORMATION CONTACT: Lois Thibault, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC, 20004–1111. Telephone number (202) 272–0023 (Voice); (202) 272–0082 (TTY). E-mail *thibault@access-board.gov.* This document is available in alternate formats (cassette tape, Braille, large print, or ASCII disk) upon request. This document is also available on the Board's Internet Site (*http://www.access-board.gov/prowmtg.htm).*

SUPPLEMENTARY INFORMATION: On October 20, 1999, the Architectural and Transportation Barriers Compliance Board (Access Board) published a notice appointing members to a Public Rights-of-Way Access Advisory Committee (Committee). 64 FR 56482 (October 20, 1999). The objectives of the Committee include providing recommendations for developing a proposed rule addressing accessibility guidelines for newly constructed and altered public rights-of-way covered by the Americans with Disabilities Act of 1990 and the Architectural Barriers Act of 1968, recommendations regarding technical assistance issues, and guidance for best practices for alterations in the public rights-of-way.

On January 10, 2001, the Committee presented its recommendations on accessible public rights-of-way in a report entitled ''Building a True Community''. The report is available on the Access Board's Web site at *http://www.access-board.gov* or can be ordered by calling the Access Board at (800) 872–2253 (voice) or (800) 993–2822 (TTY).

At its June meeting, the technical assistance subcommittee will continue to address the development and format of technical assistance materials relating to public rights-of-way. The sub-committee meeting will be open to the public and interested persons can attend the meeting and participate on subcommittees of the Committee. All interested persons will have the opportunity to comment when the proposed accessibility guidelines for public rights-of-way are issued in the **Federal Register** by the Access Board.

Individuals who require sign language interpreters or real-time captioning systems should contact Lois Thibault by April 29, 2003. Notices of future meetings will be published in the **Federal Register**.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 03–10038 Filed 4–22–03; 8:45 am]

BILLING CODE 8150–01–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Interim Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Disseminated Information

AGENCY: Chemical Safety and Hazard Investigation Board.

ACTION: Notice of availability of guidelines and request for comments.

SUMMARY: The Chemical Safety and Hazard Investigation Board (CSB) announces that its Interim Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the agency have been posted on the CSB Web site, *http://www.csb.gov.* The CSB invites public comments on its interim Guidelines and will consider the comments received in developing its final Guidelines.

DATES: The CSB must receive written comments on or before May 23, 2003.

ADDRESSES: Comments must be in writing and should be addressed to Christopher W. Warner, General Counsel, Chemical Safety and Hazard Investigation Board, 2175 K Street, NW., Suite C–100, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Christopher W. Warner, 202–261–7600.

SUPPLEMENTARY INFORMATION: Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106–554) requires each Federal agency to publish guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of the information it disseminates. Agency guidelines must be based on government-wide guidelines issued by the Office of Management and Budget (OMB). In accordance with this statutory requirement and OMB instructions, the CSB has posted its interim Information Quality Guidelines on the agency Web site (*http://www.csb.gov*) and is publishing this notice of availability.

The Guidelines describe the CSB's procedures for ensuring the quality of information that it disseminates and the procedures by which an affected person or entity may obtain correction of information disseminated by the CSB that does not comply with the Guidelines. The CSB invites public comments on its interim Guidelines and

will consider the comments received in developing its final Guidelines. Persons who cannot access the interim Guidelines through the Internet may request a paper copy by writing to the address listed in this notice.

(Authority: Sec. 515, Pub. L. 106–554; 114 Stat. 2763).

Dated: April 16, 2003.

Christopher W. Warner,

General Counsel.

[FR Doc. 03–9974 Filed 4–22–03; 8:45 am]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Quarterly Survey of State & Local Government Tax Revenues.

Form Number(s): F–71, F–72, F–73.

Agency Approval Number: 0607–0112.

Type of Request: Extension of a currently approved collection.

Burden: 5,911 hours.

Number of Respondents: 5,860.

Avg Hours Per Response: F–71 and F–73—15 minutes; F–72—30 minutes.

Needs and Uses: The Census Bureau seeks a three-year extension of the current Office of Management and Budget (OMB) approval of the Quarterly Survey of State and Local Tax Revenues. The Census Bureau conducts this survey to collect State and local government tax data for this long established data series. State & local tax collections, amounting to nearly $900 billion annually, constitute almost one-half of all governmental revenues.

Quarterly measurement of and reporting on these massive fund flows provide valuable insight into trends in the national economy and that of individual states. Information collected on the type and quantity of taxes collected gives comparative data on how the various levels of government fund their public sector obligations. These data are included in the quarterly estimates of National Income and Product developed by the Bureau of Economic Analysis (BEA) and are widely used by State revenue and tax officials, academicians, media representatives, and others.

The BEA, the Federal Reserve Board, the Department of Treasury, and others rely on these data to provide the most current information on the financial status of State and local governments. Legislators, policy makers, administrators, analysts, economists, and researchers use the data to monitor trends in public sector revenues. Journalists, teachers, and students use the data as well.

Tax collection data are used to measure economic activity for the nation as a whole, as well as for comparison among the various states. These data also are useful in comparing the mix of taxes employed by individual states, and in determining the revenue raising capacity of different types of states.

Affected Public: State, local or tribal government.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., section 182.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dhynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer either by fax (202–395–7245) or e-mail (*susan_schechter@omb.eop.gov*).

Dated: April 17, 2003.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–9957 Filed 4–22–03; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security (BIS).

Title: Chemical Weapons Convention, Amendment to the Export Administration Regulations (End-Use Certificates and Advance Notifications and Annual Reports).

Agency Form Number: None.

OMB Approval Number: 0694–0117.

Type of Request: Extension of a currently approved collection of information.

Burden: 54 hours.

Average Time Per Response: 30 minutes per response.

Number of Respondents: 107 respondents.

Needs and Uses: The U.S. is under obligation by this international treaty to impose certain trade controls. States Parties may only export Schedule 1 chemicals to other States Parties, must provide advance notification of exports of any quantity of a Schedule 1 chemical, and must submit annual reports of exports of such chemicals during the previous calendar year. The Convention also requires that prior to the export of Schedule 2 or Schedule 3 chemicals to a non-States Party, the exporter obtain an End-Use Certificate issued by the government of the importing country.

Affected Public: Federal government, businesses or other for-profit institutions.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, Office of the Chief Information Officer (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: April 17, 2003.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–9958 Filed 4–22–03; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588–824]

Certain Corrosion-Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order

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

ACTION: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order.

SUMMARY: On March 19, 2003, the Department of Commerce (''the Department'') published a notice of initiation and preliminary results of a changed circumstances review with the intent to revoke, in part, the antidumping duty order on certain corrosion-resistant carbon steel flat products from Japan. *See Certain Corrosion-Resistant Carbon Steel Flat Products From Japan: Notice of Initiation and Preliminary Results of Changed Circumstances Review of the Antidumping Order and Intent to Revoke Order in Part*, 68 FR 13256 (March 19, 2003) (''*Initiation and Preliminary Results*''). In our *Initiation and Preliminary Results*, we gave interested parties an opportunity to comment; however, we did not receive any comments. We are now revoking this order, in part, with respect to the particular carbon steel flat products described below, based on the fact that domestic parties have expressed no interest in the continuation of the order with respect to these particular carbon steel flat products. The Department will instruct the U.S. Customs Service (''Customs'') to proceed with liquidation, without regard to antidumping duties, of all unliquidated entries of certain corrosion-resistant carbon steel flat products meeting the specifications indicated below entered, or withdrawn from warehouse, for consumption on or after August 1, 1998, the day after the most recent time period that was subject to final results of an administrative review (08/01/97 - 07/31/98).

EFFECTIVE DATE: April 23, 2003.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or Peter Mueller, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3207, and (202) 482–5811, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 31, 2003, Nippon Steel (''Nippon'') requested that the Department revoke in part the antidumping duty order on certain corrosion-resistant carbon steel flat products from Japan. Specifically, Nippon requested that the Department revoke the order with respect to imports meeting the following specifications: (1) Flat-rolled products (provided for in HTSUS subheading 7210.49.00), other than of high-strength steel, known as ''ASE Iron Flash'' and either: (A) having a base layer of zinc-based zinc-iron alloy applied by hot-dipping and a surface layer of iron-zinc alloy applied by electrolytic process, the weight of the coating and plating not over 40 percent by weight of zinc; or (B) two-layer-coated corrosion-resistant steel with a coating composed of (a) a base coating layer of zinc-based zinc-iron alloy by hot-dip galvanizing process, and (b) a surface coating layer of iron-zinc alloy by electro-galvanizing process, having an effective amount of zinc up to 40 percent by weight, and (2) corrosion resistant continuously annealed flat-rolled products, continuous cast, the foregoing with chemical composition (percent by weight): carbon not over 0.06 percent by weight, manganese 0.20 or more but not over 0.40, phosphorus not over 0.02, sulfur not over 0.023, silicon not over 0.03, aluminum 0.03 or more but not over 0.08, arsenic not over 0.02, copper not over 0.08 and nitrogen 0.003 or more but not over 0.008; and meeting the characteristics described below: (A) products with one side coated with a nickel-iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a two-layer coating composed of a base nickel-iron-diffused coating layer and a surface coating layer of annealed and softened pure nickel, with total coating thickness for both layers of more than 2 micrometers; surface roughness (RA-microns) 0.18 or less; with scanning electron microscope (SEM) not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length; (B) products having one side coated with a nickel-iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a four-layer coating composed of a base nickel-iron-diffused coating layer; with an inner middle coating layer of annealed and softened pure nickel, an outer middle surface coating layer of hard nickel and a topmost nickel-phosphorus-plated layer; with combined coating thickness for the four layers of more than 2 micrometers; surface roughness (RA-microns) 0.18 or less; with SEM not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length; (C) products having one side coated with a nickel-iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a three-layer coating composed of a base nickel-iron-diffused coating layer, with a middle coating layer of annealed and softened pure nickel and a surface coating layer of hard, luster-agent-added nickel which is not heat-treated; with combined coating thickness for all three layers of more than 2 micrometers; surface roughness (RA-microns) 0.18 or less; with SEM not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length; or (D) products having one side coated with a nickel-iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a three-layer coating composed of a base nickel-iron-diffused coating layer, with a middle coating layer of annealed and softened pure nickel and a surface coating layer of hard, pure nickel which is not heat-treated; with combined coating thickness for all three layers of more than 2 micrometers; surface roughness (RA-microns) 0.18 or less; SEM not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length.

On February 13, 2003, domestic producers of the like product, Bethlehem Steel Corporation; National Steel Corporation; and United States Steel Corporation, informed the Department that they have no interest in the importation or sale of steel from Japan with these specialized characteristics. Subsequently, as noted above, we gave interested parties an opportunity to comment on the *Initiation and Preliminary Results*. We received no comments from interested parties.

New Scope Based on Changed Circumstances Review

The merchandise covered by this changed circumstances review is certain corrosion-resistant carbon steel flat products from Japan. This changed circumstances administrative review covers all manufacturers/exporters of carbon steel flat products meeting the specifications as noted above in the background section. The new scope of this order is as follows: the products covered by the antidumping duty order

include flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTSUS under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in this order are corrosion-resistant flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'') for example, products which have been beveled or rounded at the edges.

Excluded from this order are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin-free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating.

Also excluded from this order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness.

Also excluded from this order are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio.

Also excluded from this order are certain corrosion-resistant carbon steel flat products meeting the following specifications: (1) Widths ranging from 10 millimeters (0.394 inches) through 100 millimeters (3.94 inches); (2) thicknesses, including coatings, ranging from 0.11 millimeters (0.004 inches) through 0.60 millimeters (0.024 inches); and (3) a coating that is from 0.003 millimeters (0.00012 inches) through 0.005 millimeters (0.000196 inches) in thickness and that is comprised of either two evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of chromate, or three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum followed by a layer consisting of chromate, and finally a layer consisting of silicate.

Also excluded from this order are carbon steel flat products measuring 1.84 millimeters in thickness and 43.6 millimeters or 16.1 millimeters in width consisting of carbon steel coil (SAE 1008) clad with an aluminum alloy that is balance aluminum, 20% tin, 1% copper, 0.3% silicon, 0.15% nickel, less than 1% other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys.

Also excluded from this order are carbon steel flat products measuring 0.97 millimeters in thickness and 20 millimeters in width consisting of carbon steel coil (SAE 1008) with a two-layer lining, the first layer consisting of a copper-lead alloy powder that is balance copper, 9% to 11% tin, 9% to 11% lead, less than 1% zinc, less than 1% other materials and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 45% to 55% lead, 38% to 50% PTFE, 3% to 5% molybdenum disulfide and less than 2% other materials.

Also excluded from this order are doctor blades meeting the following specifications: carbon steel coil or strip, plated with nickel phosphorous, having a thickness of 0.1524 millimeters (0.006 inches), a width between 31.75 millimeters (1.25 inches) and 50.80 millimeters (2.00 inches), a core hardness between 580 to 630 HV, a surface hardness between 900 - 990 HV; the carbon steel coil or strip consists of the following elements identified in percentage by weight: 0.90% to 1.05% carbon; 0.15% to 0.35% silicon; 0.30% to 0.50% manganese; less than or equal to 0.03% of phosphorous; less than or equal to 0.006% of sulfur; other elements representing 0.24%; and the remainder of iron.

Also excluded from this order are products meeting the following specifications: carbon steel flat products measuring 1.64 millimeters in thickness and 19.5 millimeters in width consisting of carbon steel coil (SAE 1008) with a lining clad with an aluminum alloy that is balance aluminum; 10 to 15% tin; 1 to 3% lead; 0.7 to 1.3% copper; 1.8 to 3.5% silicon; 0.1 to 0.7% chromium, less than 1% other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys.

Also excluded from this order are products meeting the following specifications: carbon steel coil or strip, measuring 1.93 millimeters or 2.75 millimeters (0.076 inches or 0.108 inches) in thickness, 87.3 millimeters or 99 millimeters (3.437 inches or 3.900 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 0.3% antimony, 2.5% silicon, 1% maximum total other (including iron), and remainder aluminum.

Also excluded from this order are products meeting the following specifications: carbon steel coil or strip, clad with aluminum, measuring 1.75 millimeters (0.069 inches) in thickness, 89 millimeters or 94 millimeters (3.500 inches or 3.700 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 2.5% silicon, 0.3% antimony, 1% maximum total other (including iron), and remainder aluminum.

Also excluded from this order are products meeting the following specifications: carbon steel coil or strip, measuring a minimum of and including 1.10mm to a maximum of and including 4.90mm in overall thickness, a minimum of and including 76.00mm to a maximum of and including 250.00mm in overall width, with a low carbon steel back comprised of: carbon under 0.10%, manganese under 0.40%, phosphorous under 0.04%, sulfur under 0.05%, and silicon under 0.05%; clad with aluminum alloy comprised of: under 2.51% copper, under 15.10% tin, and remainder aluminum as listed on the mill specification sheet.

Also excluded from this order are products meeting the following specifications: (1) Diffusion annealed,

non-alloy nickel-plated carbon products, with a substrate of cold-rolled battery grade sheet (''CRBG'') with both sides of the CRBG initially electrolytically plated with pure, unalloyed nickel and subsequently annealed to create a diffusion between the nickel and iron substrate, with the nickel plated coating having a thickness of 0–5 microns per side with one side equaling at least 2 microns; and with the nickel carbon sheet having a thickness of from 0.004'' (0.10mm) to 0.030'' (0.762mm) and conforming to the following chemical specifications (%): C ≤ 0.08; Mn ≤ 0.45; P ≤ 0.02; S ≤ 0.02; Al ≤ 0.15; and Si ≤ 0.10; and the following physical specifications: Tensile = 65 KSI maximum; Yield = 32 - 55 KSI; Elongation = 18% minimum (aim 34%); Hardness = 85 - 150 Vickers; Grain Type = Equiaxed or Pancake; Grain Size (ASTM) = 7–12; Delta r value = aim less than +/- 0.2; Lankford value = ≥ 1.2.; and (2) next generation diffusion-annealed nickel plate meeting the following specifications: (a) nickel-graphite plated, diffusion annealed, tin-nickel plated carbon products, with a natural composition mixture of nickel and graphite electrolytically plated to the top side of diffusion annealed tin-nickel plated carbon steel strip with a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; having both sides of the cold rolled substrate electrolytically plated with natural nickel, with the top side of the nickel plated strip electrolytically plated with tin and then annealed to create a diffusion between the nickel and tin layers in which a nickel-tin alloy is created, and an additional layer of mixture of natural nickel and graphite then electrolytically plated on the top side of the strip of the nickel-tin alloy; having a coating thickness: top side: nickel-graphite, tin-nickel layer ≥ 1.0 micrometers; tin layer only ≥ 0.05 micrometers, nickel-graphite layer only > 0.2 micrometers, and bottom side: nickel layer ≥ 1.0 micrometers; (b) nickel-graphite, diffusion annealed, nickel plated carbon products, having a natural composition mixture of nickel and graphite electrolytically plated to the top side of diffusion annealed nickel plated steel strip with a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; with both sides of the cold rolled base metal initially electrolytically plated with natural nickel, and the material then annealed to create a diffusion between the nickel and the iron substrate; with an additional layer of natural nickel-graphite then electrolytically plated on the top side of the strip of the nickel plated steel strip; with the nickel-graphite, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having a coating thickness: top side: nickel-graphite, tin-nickel layer ≥ 1.0 micrometers; nickel-graphite layer ≥ 0.5 micrometers; bottom side: nickel layer ≥ 1.0 micrometers; (c) diffusion annealed nickel-graphite plated products, which are cold-rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; having the bottom side of the base metal first electrolytically plated with natural nickel, and the top side of the strip then plated with a nickel-graphite composition; with the strip then annealed to create a diffusion of the nickel-graphite and the iron substrate on the bottom side; with the nickel-graphite and nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having coating thickness: top side: nickel-graphite layer ≥ 1.0 micrometers; bottom side: nickel layer ≥ 1.0 micrometers; (d) nickel-phosphorous plated diffusion annealed nickel plated carbon product, having a natural composition mixture of nickel and phosphorus electrolytically plated to the top side of a diffusion annealed nickel plated steel strip with a cold rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; with both sides of the base metal initially electrolytically plated with natural nickel, and the material then annealed to create a diffusion of the nickel and iron substrate; another layer of the natural nickel-phosphorous then electrolytically plated on the top side of the nickel plated steel strip; with the nickel-phosphorous, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling or any other evidence of separation; having a coating thickness: top side: nickel-phosphorous, nickel layer ≥ 1.0 micrometers; nickel-phosphorous layer ≥ 0.1 micrometers; bottom side : nickel layer ≥ 1.0 micrometers; (e) diffusion annealed, tin-nickel plated products, electrolytically plated with natural nickel to the top side of a diffusion annealed tin-nickel plated cold rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; with both sides of the cold rolled strip initially electrolytically plated with natural nickel, with the top side of the nickel plated strip electrolytically plated with tin and then annealed to create a diffusion between the nickel and tin layers in which a nickel-tin alloy is created, and an additional layer of natural nickel then electrolytically plated on the top side of the strip of the nickel-tin alloy; sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling or any other evidence of separation; having coating thickness: top side: nickel-tin-nickel combination layer ≥ 1.0 micrometers; tin layer only ≥ 0.05 micrometers; bottom side: nickel layer ≥ 1.0 micrometers; and (f) tin mill products for battery containers, tin and nickel plated on a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; having both sides of the cold rolled substrate electrolytically plated with natural nickel; then annealed to create a diffusion of the nickel and iron substrate; then an additional layer of natural tin electrolytically plated on the top side; and again annealed to create a diffusion of the tin and nickel alloys; with the tin-nickel, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling or any other evidence of separation; having a coating thickness: top side: nickel-tin layer ≥ 1 micrometer; tin layer alone ≥ 0.05 micrometers; bottom side: nickel layer ≥ 1.0 micrometer.

Also excluded from this order are products meeting the following specifications: (1) Widths ranging from 10 millimeters (0.394 inches) through 100 millimeters (3.94 inches); (2) thicknesses, including coatings, ranging from 0.11 millimeters (0.004 inches) through 0.60 millimeters (0.024 inches); and (3) a coating that is from 0.003 millimeters (0.00012 inches) through 0.005 millimeters (0.000196 inches) in thickness and that is comprised of either two evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of phosphate, or three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum followed by a layer consisting of phosphate, and finally a layer consisting of silicate.

Also excluded from this order are products meeting the following specifications: (1) Flat-rolled products (provided for in HTSUS subheading 7210.49.00), other than of high-strength steel, known as ''ASE Iron Flash'' and either: (A) having a base layer of zinc-based zinc-iron alloy applied by hot-

dipping and a surface layer of iron-zinc alloy applied by electrolytic process, the weight of the coating and plating not over 40 percent by weight of zinc; or (B) two-layer-coated corrosion-resistant steel with a coating composed of (a) a base coating layer of zinc-based zinc-iron alloy by hot-dip galvanizing process, and (b) a surface coating layer of iron-zinc alloy by electro-galvanizing process, having an effective amount of zinc up to 40 percent by weight, and (2) corrosion resistant continuously annealed flat-rolled products, continuous cast, the foregoing with chemical composition (percent by weight): carbon not over 0.06 percent by weight, manganese 0.20 or more but not over 0.40, phosphorus not over 0.02, sulfur not over 0.023, silicon not over 0.03, aluminum 0.03 or more but not over 0.08, arsenic not over 0.02, copper not over 0.08 and nitrogen 0.003 or more but not over 0.008; and meeting the characteristics described below: (A) Products with one side coated with a nickel-iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a two-layer coating composed of a base nickel-iron-diffused coating layer and a surface coating layer of annealed and softened pure nickel, with total coating thickness for both layers of more than 2 micrometers; surface roughness (RA-microns) 0.18 or less; with scanning electron microscope (SEM) not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length; (B) products having one side coated with a nickel-iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a four-layer coating composed of a base nickel-iron-diffused coating layer; with an inner middle coating layer of annealed and softened pure nickel, an outer middle surface coating layer of hard nickel and a topmost nickel-phosphorus-plated layer; with combined coating thickness for the four layers of more than 2 micrometers; surface roughness (RA-microns) 0.18 or less; with SEM not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length; (C) products having one side coated with a nickel-iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a three-layer coating composed of a base nickel-iron-diffused coating layer, with a middle coating layer of annealed and softened pure nickel and a surface coating layer of hard, luster-agent-added nickel which is not heat-treated; with combined coating thickness for all three layers of more than 2 micrometers; surface roughness (RA-microns) 0.18 or less; with SEM not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length; or (D) products having one side coated with a nickel-iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a three-layer coating composed of a base nickel-iron-diffused coating layer, with a middle coating layer of annealed and softened pure nickel and a surface coating layer of hard, pure nickel which is not heat-treated; with combined coating thickness for all three layers of more than 2 micrometers; surface roughness (RA-microns) 0.18 or less; SEM not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length.

Final Results of Review; Partial Revocation of Antidumping Duty Order

The affirmative statement of no interest by petitioners concerning carbon steel flat products, as described herein, constitutes changed circumstances sufficient to warrant partial revocation of this order. Also, no party commented on the *Initiation and Preliminary Results*. Therefore, the Department is partially revoking the order on certain corrosion-resistant carbon steel flat products from Japan with regard to products which meet the specifications detailed above, in accordance with sections 751(b) and (d) and 782(h) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.216(d) of the Department's regulations. The Department will instruct Customs to proceed with liquidation, without regard to antidumping duties, of all unliquidated entries of certain corrosion-resistant carbon steel flat products meeting the specifications indicated above entered, or withdrawn from warehouse, for consumption on or after August 1, 1998, the day after the most recent time period that was subject to final results of an administrative review (08/01/97 - 07/31/98). The Department will further instruct Customs to refund with interest any estimated duties collected with respect to unliquidated entries of certain corrosion-resistant carbon steel flat products meeting the specifications indicated above, entered or withdrawn from warehouse, for consumption on or after August 1, 1998, in accordance with section 778 of the Act.

This notice serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306 of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This changed circumstances administrative review, partial revocation of the antidumping duty order and notice are in accordance with sections 751(b) and (d) and 782(h) of the Act and sections 351.216(e) and 351.222(g) of the Department's regulations.

Dated: April 16, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–10060 Filed 4–22–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Notice of Opportunity To Apply for Membership on the U.S. Travel and Tourism Promotion Advisory Board

AGENCY: International Trade Administration.

ACTION: Notice.

SUMMARY: The Department of Commerce is currently seeking applications for membership on the U.S. Travel and Tourism Promotion Advisory Board (''Board''). The purpose of the Board is to recommend to the Secretary of Commerce the appropriate coordinated activities with regards to funding for the Travel and Tourism Advertising and Promotional Campaign (''Campaign''). Pursuant to Pub. L. No. 108–7, Division B, section 210, the Secretary of Commerce shall in consultation with the private sector design, develop and implement an international advertising and promotional campaign, which seeks to encourage foreign individuals to travel to the United States for the purposes of engaging in tourism related activities.

SUPPLEMENTARY INFORMATION: The Board was established pursuant to the Department of Commerce and Related Agencies Appropriations Act, 2003, section 210 (Public Law 108–7), to advise the Secretary of Commerce on appropriate coordinated activities for funding under the Campaign. The Board shall function as an advisory committee in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, and Department of Commerce policies on Advisory Boards.

The Office of the Deputy Assistant Secretary for Service Industries,

Tourism and Finance is accepting applications for Board members. Members shall serve until the Board's charter expires on April 1, 2005. Members will be selected based on our judgement of the candidates' proven experience in promoting, developing, and implementing advertising and marketing programs for travel-related or tourism-related industries; or the candidates' proven abilities to manage tourism-related or other service-related organizations. Each Board member shall serve as the representative of a tourism-related ''U.S. entity.'' However, for the purposes of eligibility, a U.S. entity shall be defined as a firm incorporated in the United States (or an unincorporated firm with its principal place of business in the United States) that is controlled by U.S. citizens or by another U.S. entity. An entity is not a U.S. entity if 50 percent plus one share of its stock (if a corporation, or a similar ownership interest of an unincorporated entity) is controlled, directly or indirectly, by non-U.S. citizens or non-U.S. entities. Priority may be given to chief executive officers or a similarly-situated officer of a tourism-related entity. Priority may also be given to individuals with international tourism marketing experience.

Officers or employees of state and regional tourism marketing entities are also eligible for consideration for Board membership. A state and regional tourism marketing entity, may include, but is not limited to, state government tourism office, state and/or local government supported tourism marketing entities, or multi-state tourism marketing entities. Again, priority may be given to chief executive officers or a similarly-situated officer.

Secondary selection criteria will ensure that the board has a balanced representation of the tourism-related industry in terms of point of view, demographics, geography and company size. The Board members will be selected on the basis of their experience and knowledge of the tourism industry. Members will serve at the discretion of the Secretary of Commerce.

Board members shall serve in a representative capacity presenting the views and interests of the particular tourism-related sector in which they operate. Board members are not special government employees, and will receive no compensation for their participation in Board activities. Members participating in Board meetings and events will be responsible for their travel, living and other personal expenses. Meetings will be held regularly, usually in Washington, DC. The first Board meeting has not yet been determined.

To be considered for membership, please provide the following: 1. Name and title of the individual requesting consideration. 2. A letter of recommendation containing a brief statement of why the applicant should be considered for membership on the Board. This recommendation should also include the applicant's tourism-related experience. 3. The applicant's personal resume. 4. An affirmative statement that the applicant is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended. 5. If a state or regional tourism marketing entity, the functions and responsibilities of the entity. 6. The company's size and ownership, product or service line and major markets in which the company operates.

ADDRESSES: Submit application information to Douglas B. Baker, Deputy Assistant Secretary for Service Industries, Tourism and Finance, U.S. Department of Commerce, Room 1128, Washington, DC 20230.

Deadline: All applications must be received by the Office of the Deputy Assistant Secretary for Service Industries, Tourism and Finance by close of business on May 12, 2003.

FOR FURTHER INFORMATION CONTACT: Douglas B. Baker, (202) 482–5261.

Dated: April 17, 2003.

Helen Marano,

Director, Office of Travel & Tourism.

[FR Doc. 03–9956 Filed 4–22–03; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041703B]

Marine Mammals; File No. 981–1707

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

ACTION: Receipt of application and notice of availability of draft environmental assessment.

SUMMARY: Notice is hereby given that Dr. Peter L. Tyack, Biology Department, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts, 02543, has applied in due form for a permit to take various cetacean species for purposes of scientific research. A draft environmental assessment has been prepared on the proposed research and is available for comment.

DATES: Written or telefaxed comments must be received on or before May 23, 2003.

ADDRESSES: The application, draft environmental assessment, and related documents are available for review upon written request, by downloading from the internet, or by appointment in the following office(s):Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; www.nmfs.noaa.gov/prot__res;

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9200; fax (978)281–9371; and

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard, Tammy Adams, or Steve Leathery, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).The applicant requests authorization for a five year permit to take various cetacean species, including endangered whales, in the North Atlantic (including the Gulf of Mexico) and Mediterranean Sea for scientific purposes related to the biology, foraging ecology, communication, and behavior of these animals. The research focuses on cetacean responses to anthropogenic sounds in the marine environment. Takes would include close approach, suction-cup tagging, and playbacks of high frequency whale-finding sonar, airgun sounds, and sperm whale codas. The permit application covers three research projects which use as their primary research method non-intrusive, suction-cup tagging with an advanced digital sound recording tag (DTAG). The DTAG can record what an animal hears and measure vocal, behavioral, and physiological responses to sound. Small fragments of sloughed skin found in the suction-cup of the DTAG after retrieval will be exported from field sites and imported for genetic analyses. The applicant seeks to test a whale-finding

sonar developed by a North Atlantic Treaty Organization (NATO) undersea research lab in Italy. The sonar uses a non-directional sound source and a sophisticated directional receiver. This permit application covers research to test how well this whale finder detects whales in the Mediterranean Sea.

Project 1 will involve applying DTAGs to a variety of whale and dolphin species to study the baseline behavior of animals tagged throughout the North Atlantic. The endangered species that the applicant plans to tag are: humpback (*Megaptera novaeangliae*), sei (*Balaenoptera borealis*), fin (*Balaenoptera physalus*), blue (*Balaenoptera musculus*), and sperm (*Physeter macrocephalus*) whales. There are three main goals of Project 1: (1) to obtain continuous sampling of marine mammal vocal and motor behavior, (2) to determine correction factors that can be applied to visual sighting data to better estimate population and stock abundance, and (3) to serve as a control group for Projects 2 and 3, described below.

The goals of Project 2 are: (1) To validate the effectiveness of a high-frequency whale-finding sonar developed by a NATO research lab to detect marine mammals based on species, size, and orientation of the animal in the water, and (2) to determine what sound levels heard by an animal may cause a change in its behavior. Project 2 research will be conducted in the Mediterranean Sea and will focus on sperm whales, however, other species of whales such as fin and minke (*Balaenoptera acustostrata*) and dolphin species will also be tagged. For Project 2, DTAG-tagged animals will be exposed to sounds at received levels of 120–160 dB re 1 μPa rms for testing short sounds of a whale-finding sonar. Pre-recorded sperm whale vocalizations (codas) will also be transmitted to serve as control playbacks. Because monitoring techniques for loud operations such as rig removal and ship shock trials have typically consisted of visual observations and passive acoustic listening, and these methods are not 100 percent effective (e.g., at night, during poor weather, when animals are silent), there is a need for a more effective tool to detect the presence of marine mammals in the vicinity of such loud noises. This need for a detection tool has led to the development of low power, mid or high frequency sonars that can detect marine mammals within a range of 1–2 km. If found to be effective this whale-finding sonar could be used to search an area for marine mammals, similar to the sonar used to locate schools of fish. If animals are detected in the vicinity of a potentially harmful operation, such as an underwater explosion, the event could be halted until the animals are safely out of range.

In Project 3, the applicant will study the responses of tagged sperm whales to short impulses from airgun arrays in the Gulf of Mexico. Technological advances in the oil and gas industry are allowing exploration and drilling in much deeper waters than in the past, which may have an increased impact on deep diving marine mammals such as sperm whales. Most projections predict strong expansion of industry activities into deep waters of the Gulf of Mexico where sperm whales reside. The seismic industry uses arrays of airguns to direct sound energy downwards into geological strata below the seafloor. Because sperm whales spend most of their time below the surface it is not known how they react to the sounds of the seismic surveying. The applicant proposes to use the DTAG to study how likely sperm whales are to silence, move away, or show other disruption of behavior when they are exposed to impulse sounds from an airgun array versus natural control sounds. Animals will be exposed to airgun sounds at received levels no higher than 180 dB re 1 μPa rms. Sperm whale codas will serve as the control playbacks. This project will involve visual observations of surfacing sperm whales, passive acoustic tracking of diving sperm whales, and tagging sperm whales with DTAGs. Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application and the draft environmental assessment to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: April 18,2003.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–10072 Filed 4–22–03; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Public Field Hearing Concerning All-Terrain Vehicles

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public field hearing.

SUMMARY: The Consumer Product Safety Commission (''CPSC'' or ''Commission'') will conduct a public field hearing in Morgantown, West Virginia on June 5, 2003 to obtain information and views from the public concerning all-terrain vehicles (''ATVs''). The Commission conducted several field hearings on ATVs in 1985.

From 1997 to 2001 the estimated number of ATV-related injuries treated in hospital emergency rooms rose from 54,700 to 111,700 (a 104% increase). Deaths have also been increasing and the Commission staff has estimated that there were 547 deaths associated with the use of ATVs in 2000. From 1997 to 2001 the estimated number of ATV drivers rose from 12 million to 16.3 million (a 36% increase), the estimated total number of driving hours rose from 1575 million to 2364 million (a 50% increase), and the estimated number of ATVs rose from 4 million to 5.6 million (a 40% increase). None of the increases in these measures of exposure to the risk of operating ATVs accounts for the increases in the number of injuries during the same time period.

The Commission requests members of the public to participate in this hearing. The Commission is particularly interested in participation from users of ATVs (both recreational and occupational); persons who have been involved in accidents or have been injured while riding ATVs; state and local government officials or organizations involved with ATVs; medical professionals and emergency service providers; safety and design engineers; and manufacturers, distributors and dealers of ATVs.

DATES: The hearing will be held on June 5, 2003, beginning at 10 a.m. and will continue until 7 p.m. The Commission will recess for lunch on or about 12 noon. Requests to make oral presentations, and 10 copies of the text of the presentation, must be received by

the CPSC Office of the Secretary no later than May 29, 2003. Persons making presentations at the meeting should provide an additional 10 copies for dissemination on the date of the meeting. The Commission reserves the right to limit the number of persons who make presentations and the duration of their presentations. To prevent duplication in presentations, groups may be directed to designate a spokesperson.

Written submissions, in addition to, or instead of, an oral presentation may be sent to the address listed below and will be accepted until July 5, 2003.

ADDRESSES: The meeting will be held at West Virginia University, Health Sciences Campus, Robert C. Byrd Health Science Center, Medical Center Drive, Morgantown, WV 26506. Requests to make oral presentations, and texts of oral presentations should be captioned ''ATV Hearing'' and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Requests and texts of oral presentations may also be submitted by facsimile to (301) 504–0127 or by e-mail to *cpsc-os@cpsc.gov*.

FOR FURTHER INFORMATION CONTACT: For information about the schedule for submission of requests to make oral presentations and submission of texts of oral presentations, contact Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–6833; fax (301) 504–0127; e-mail *rhammond@cpsc.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

The question of ATV safety has been an issue of interest to the Commission since the 1980's. In 1985, the Commission held several hearings in locations around the country to solicit views from the public on how to address hazards posed by ATVs. In 1987, the Commission filed a lawsuit under section 12 of the Consumer Product Safety Act (''CPSA'') to declare ATVs an imminently hazardous consumer product. 15 U.S.C. 2061(b)(1). The lawsuit was settled in 1988 by Consent Decrees between the Commission and ATV distributors that were effective for 10 years. The Consent Decrees contained provisions addressing both three-wheel and four-wheel ATVs. After the Consent Decrees expired, the Commission entered into ''ATV Action Plans'' with individual distributors who had been subject to the Consent Decrees and three other distributors who had entered into the market subsequently. Since the expiration of the Consent Decrees, the Commission has continued to gather information about ATV-related injuries and deaths. The Commission is interested in obtaining information and views from the public about ATV safety and ideas for approaches that may address ATV-related injuries and deaths.

The Commission is aware that the sales and size of ATVs have been increasing in recent years. The Commission's data indicate that between 1982 and 2001 there were reports of 4,541 ATV-related deaths. Of these deaths, 1,714 (or 38%) were to children under 16 years old. In the year 2001, there were 111,700 people taken to emergency rooms for ATV-related injuries, of which 34,800 were under 16 years old. The Commission staff completed a risk analysis earlier this year examining some of the factors and circumstances involved in ATV incidents. This risk analysis revealed a number of factors to be considered in determining why the numbers of injuries associated with ATV operation is increasing faster than the exposure to ATVs: (1) the increase in injuries has been greater to riders aged 16 and above, and (2) the increase in injuries associated with the use of ATVs with engine sizes 400cc and above has been greater than those associated with the use of ATVs with smaller engine sizes. In addition, the market for used ATVs appears to have grown significantly, in terms of gross numbers. The Commission is interested in learning whether these factors, a combination of them, or other factors, are causing ATV injuries to increase faster than ATV sales and use.

The Commission is concerned about the dramatic increase in ATV-related injuries and the continued increase in ATV-related deaths and believes that holding a hearing will provide an opportunity for the interested public to share their concerns about ATVs and ATV safety.

The Commission has a petition from the Consumer Federation of America and other groups (Petition CP–02–4/HP–02–1) requesting that the Commission ban the sale of adult-size four-wheel ATVs sold for the use of children under 16 years of age. The Commission requested and received written comments on the petition (67 FR 64353 and 67 FR 78776). These comments are posted on our Web site, *http://www.cpsc.gov*. This hearing will provide an additional opportunity for the public to express their views about this petition.

B. The Public Hearing

The purpose of the public hearing is to provide a forum for oral presentations concerning ATVs. Specifically, the Commission requests comments from interested stakeholders and citizens on the following areas of interest:

1. Local and state ATV use restrictions, regulations and licensing activities and their impact upon ATV safety.
2. Current ATV use patterns (recreational, industrial, agricultural, or other uses), and injuries and safety issues related to those specific uses.
3. Information from ATV owners and users regarding ATV use, safety issues, accidents and injuries, minimum riding and purchasing age requirements, and future government action.
4. Current local, state and industry safety efforts and training programs.
5. Information from ATV manufacturers and dealers regarding the availability and use of safety training for ATV purchasers, and ATV consumer purchasing patterns (age of purchasers, model type and size, experienced vs. inexperienced riders, etc.).
6. Whether factors such as the rider's age, ATV engine size, and/or the large used ATV sales market (or any other factors) have influenced the increase in injuries and deaths observed by the Commission staff during its recent ATV risk analysis study.
7. Whether there should be a performance standard for ATVs and what requirements related to safety should be included.

Participation in the hearing is open. See the DATES section of this notice for information on making requests to give oral presentations at the hearing and on making written submissions.

Dated: April 18, 2003.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 03–10046 Filed 4–22–03; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

The Joint Staff, National Defense University, Board of Visitors Meeting

AGENCY: National Defense University.

ACTION: Notice of open meeting.

SUMMARY: The President, National Defense University (NDU) has scheduled a meeting of the Board of Visitors (BOV).

DATES: The meeting will be held on April 28th and 29th 2003, from 13:00 to 16:00 on the 28th and continuing on the 29th from 08:30 to 14:30.

ADDRESSES: The Board will meet in Room 155, Marshall Hall, building 62, National Defense University, 300 5th

Avenue, Fort McNair, Washington, DC 20319–5066.

FOR FURTHER INFORMATION CONTACT: NDU Deputy Chief Operations Officer & Deputy Chief of Staff, Mr. Michael Mann, National Defense University, Fort Lesley J. McNair, Washington, DC 20319–5066. To reserve seating space, interested persons should contact the NDU, POC Mr. Mann, at (202) 685–3903.

SUPPLEMENTARY INFORMATION: The agenda will address current and future teaching, research, and outreach issues for the National Defense University and its components. The meeting is open to the public however, space is limited and therefore will be allocated to observers on a first come, first served basis.

POC for outside interests is Mr. Michael Mann, BOV Executive Secretary at *mannm@ndu.edu* and/or (202) 685–3903.

Dated: April 16, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–9963 Filed 4–22–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting date change.

SUMMARY: On Friday, February 7, 2003 (68 FR 6421), the Department of Defense announced closed meetings of the Defense Science Board (DSB) Task Force on Future Strategic Strike Forces. The meeting originally scheduled for June 18–19, 2003, has been moved to June 12–13, 2003. The meeting will be held at Strategic Analysis, Inc., 3601 Wilson Boulevard, Suite 600, Arlington, VA.

Dated: April 16, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–9961 Filed 4–22–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meeting Date Change.

SUMMARY: On Wednesday, March 26, 2003 (68 FR 14598), the Department of Defense announced closed meetings of the Defense Science Board (DSB) Task Force on Enduring Freedom Lessons Learned. One of the meetings has been rescheduled from April 21, 2003, to April 23, 2003. The meeting will take place at the U.S. Transportation Command at Scott Air Force Base, IL.

Dated: April 16, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–9962 Filed 4–22–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 23, 2003.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 18, 2003.

John D. Tressler,

Leader, Regulatory Management Group, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New.

Title: Even Start Classroom Literacy Interventions and Outcomes (CLIO) Study.

Frequency: Semi-Annually.

Affected Public: Individuals or household; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 25,670.

Burden Hours: 16,631.

Abstract: CLIO will test the effectiveness of various enhanced family literacy interventions in promoting: (a) Literacy and other school readiness skills in low-income children; (b) parent literacy; and (c) parent involvement as teachers of their own child, especially in the area of early literacy.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2271. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov*. Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information

Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–10042 Filed 4–22–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice DE–FG01–03ER03–21; Department of Energy Experimental Program To Stimulate Competitive Research (DOE/EPSCoR) Implementation Awards

AGENCY: U.S. Department of Energy.

ACTION: Notice inviting research applications.

SUMMARY: The Office of Basic Energy Sciences (BES) of the Office of Science (SC), U.S. Department of Energy (DOE), in keeping with its energy-related mission to assist in strengthening the Nation's scientific research enterprise through the support of science, engineering, and mathematics, announces its interest in receiving applications from eligible States for the support of the DOE/EPSCoR Program. The purpose of the DOE/EPSCoR Program is to enhance the capabilities of designated States to conduct nationally-competitive energy-related research and to develop science and engineering human resources in energy-related areas to meet current and future needs.

DATES: The deadline for receipt of formal applications is 4:30 p.m. E.S.T., September 23, 2003, in order to be accepted for merit review and to permit timely consideration for award in Fiscal Year 2004. No application will be accepted after this deadline.

ADDRESSES: Formal applications referencing Program Notice DE–FG01–03ER03–21 must be sent electronically by an authorized institutional business official through DOE's Industry Interactive Procurement System (IIPS) at: *http://e-center.doe.gov* (see also *http://www.sc.doe.gov/production/grants/grants.html).* IIPS provides for the posting of solicitations and receipt of applications in a paperless environment via the Internet. In order to submit applications through IIPS your business official will need to register at the IIPS Web site. The Office of Science will include attachments as part of this notice that provide the appropriate forms in PDF fillable format that are to be submitted through IIPS. IIPS offers the option of using multiple files—please limit submissions to one volume and one file if possible, with a maximum of no more than four files. Color images should be submitted in IIPS as a separate file in PDF format and identified as such. These images should be kept to a minimum due to the limitations of reproducing them. They should be numbered and referred to in the body of the technical scientific application as Color image 1, Color image 2, etc. Questions regarding the operation of IIPS may be E-mailed to the IIPS Help Desk at: *HelpDesk@pr.doe.gov,* or you may call the help desk at: (800) 683–0751. Further information on the use of IIPS by the Office of Science is available at: *http://www.sc.doe.gov/production/grants/grants.html.*

If you are unable to submit the application through IIPS, please contact the Grants and Contracts Division, Office of Science at: (301) 903–5212, in order to gain assistance for submission through IIPS or to receive special approval and instruction on how to submit printed applications.

FOR FURTHER INFORMATION CONTACT: Dr. Matesh N. Varma, DOE/EPSCoR Program Manager, Division of Materials Sciences and Engineering, SC–132, Germantown Building, Office of Science, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–1290. Telephone: (301) 903–3209; Fax: (301) 903–9513; E-Mail: *matesh.varma@science.doe.gov.*

SUPPLEMENTARY INFORMATION: To continue to enhance the competitiveness of states and territories identified for participation in the Experimental Program to Stimulate Competitive Research (EPSCoR) by the National Science Foundation (NSF), DOE has decided to again restrict eligibility to the following states and territory: Alabama, Alaska, Arkansas, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, South Carolina, South Dakota, Vermont, West Virginia, Wyoming, and the Commonwealth of Puerto Rico. An appropriate fiscal agent, acting on behalf of a state's EPSCoR Committee, may submit only two applications in response to this program notice. Each application is restricted to one research ''cluster.'' A cluster is defined as a group of scientists working on a common scientific theme. It is the DOE/EPSCoR program policy to limit the Research Implementation Awards to one active award per state. Therefore, only those EPSCoR states that have: (1) Not received a previous DOE/EPSCoR Research Implementation Awards, (2) ''graduated'' their previously supported Research Implementation Awards research clusters or (3) received final funding for their Research Implementation Awards in Fiscal Year 2003, are eligible to apply for Fiscal Year 2004 funding. Thus, only the following states are eligible to apply under this notice: Alaska, Arkansas, Hawaii, Idaho, Louisiana, Maine, New Mexico, North Dakota, Oklahoma, South Carolina, South Dakota, and Wyoming. Awards issued under this Notice will provide funding for basic research, its coordination, and development of human resources in the state. The DOE/EPSCoR Research Implementation Awards should be used to improve the academic research infrastructure of key science and technology areas identified by the state's EPSCoR governing committee as critical to the development of state and institutional research and development capability. The state's strategy to develop and utilize the scientific and technological resources that reside in its research universities should be described in its DOE/EPSCoR Research Implementation Awards application. In preparation for submitting an application, the EPSCoR governing committee within each state is expected to have undertaken a comprehensive analysis of the strengths, weaknesses, and opportunities for development of its research institutions in support of overall state research and development objectives. Successful infrastructure improvement plans are likely to be those which are focused on one energy-related research area and which candidly represent the opportunities for enhanced academic R&D competitiveness, including the acquisition of sustained non-EPSCoR support. Most important, the state's infrastructure improvement strategy must have a high probability of realizing stated goals and objectives as judged by members of a DOE merit review panel. In all instances, performance milestones and a timetable for achieving such milestones are prerequisites for EPSCoR support. Priority will be given to applications that propose to develop new competitive research areas rather than those that propose to enhance or continue research areas that are already competitive. The DOE/EPSCoR Research Implementation Awards are not appropriate mechanisms to provide support for individual faculty science and technology research projects.

Program Funding

Subject to Congressional authorization and approval of funds in Fiscal Year 2004 DOE anticipates an estimated $1.0 million will be available for awards to fund collaborative research and human resource development in energy-related science

and engineering disciplines. Approximately one to two awards are anticipated in Fiscal Year 2004 at a maximum award level of $750,000 per year for a period of three years. EPSCoR funding will not be provided to the national laboratories or non-designated EPSCoR states. Continuation funding for the awards will be contingent upon the availability of appropriated funds, progress of the research, and continuing program need. Renewal applications for implementation awards beyond the initial three-year period will be considered for an additional three years, subject to continuing meritorious performance and progress in the previous award periods, as well as the value added of the proposed effort and the availability of funds. As a tangible measure of an applicant's commitment to the objectives of the DOE/EPSCoR Program, cost sharing on a minimum one-to-one ratio is a requirement for the implementation grants. Therefore, each application submitted requesting support from DOE under this Notice must provide, from non-Federal funds, an amount equal to or greater than the amount awarded by DOE; *i.e.*, for every dollar provided by DOE, the recipient must provide a dollar or more from non-Federal sources for the project.

Applications

The DOE/EPSCoR Research Implementation Awards are open to the entire range of energy-related disciplines supported by the Department of Energy. Additional information on the DOE Research Programs is available at the following Web site addresses:

Department of Energy (General Information): http://www.energy.gov/.

Office of Science: http://www.science.doe.gov/feature/BES.htm.

Basic Energy Sciences: http://www.science.doe.gov/feature/BES.htm.

Biological and Environmental Research: http://www.science.doe.gov/.

Advanced Scientific Computing Research: http://www.science.doe.gov/feature/ASCR.htm.

Fusion Energy Sciences: http://www.science.doe.gov/feature/fes.htm.

High Energy and Nuclear Physics: http://www.science.doe.gov/feature/hep-hp.htm.

Office of Defense Programs: http://www.nnsa.doe.gov/.

Office of Energy Efficiency and Renewable Energy: http://www.eren.doe.gov.

Office of Fossil Energy: http://www.fe.doe.gov.

Office of Environmental Management: http://www.em.doe.gov.

Office of Civilian Radioactive Waste Management: http://www.rw.doe.gov.

Office of Nuclear Energy: http://www.ne.doe.gov.

Merit Review

Applications will be subjected to formal scientific merit review and will be evaluated against the following evaluation criteria listed in descending order of importance as codified at 10 CFR 605.10(d).

1. Scientific and/or Technical Merit of the Project.
2. Appropriateness of the Proposed Method or Approach.
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources.
4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation will include program policy factors such as the relevance of the proposed Research to the terms of the announcement and the agency's programmatic needs. Applications will also be reviewed by relevant program offices to determine the priority of research. Program offices will also be asked for their willingness to provide co-funding if a project is selected for approval. Note: External peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers will often be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution. All projects will be evaluated using the same criteria, regardless of the submitting institution.

Applicants are encouraged to collaborate with researchers in other institutions, such as universities, national laboratories, industry, and nonprofit organizations. General information about the development and submission of applications, eligibility, limitations, evaluation, and selection processes, and other policies and procedures may be found in 10 CFR part 605 and in the Application Guide for the Office of Science Financial Assistance Program. Electronic access to the Guide and required forms are available via the World Wide Web at: *http://www.science.doe.gov/grants/.*

Specific guidance for the preparation of the DOE/EPSCoR Research Implementation applications may be found in the ''Supplemental Information Guidelines'' at Web site: *http://www.er.doe.gov/production/bes/EPSCoR/APPLI.HTM.* Because of program specific information required and the overall complexity of the applications, the format and guidance included in the ''Supplemental Information Guidelines'' supersedes that of the general instructions for the preparation of an application to the Office of Science.

The Catalog of Federal Domestic Assistance number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC on April 14, 2003.

Ralph H. De Lorenzo,

Acting Associate Director of Science for Resource Management.

[FR Doc. 03–10019 Filed 4–22–03; 8:45 am]

BILLING CODE 6450–03–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, May 28, 2003, 1 p.m.–8:30 p.m.

ADDRESSES: Cities of Gold Hotel, Pojoaque, NM.

FOR FURTHER INFORMATION CONTACT: Menice Manzanares, Northern New Mexico Citizens' Advisory Board, 1660 Old Pecos Trail, Suite B, Santa Fe, NM 87505. Phone (505) 995–0393; fax (505) 989–1752 or e-mail: *mmanzanares@doeal.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1 p.m.—Call to Order by Ted Taylor, DDFO; Ray Lopez Welcome and Introductions by Jim Brannon, Board Chair; Approval of Agenda; Approval of March 19 Meeting Minutes

1:15 p.m.—Public Comment

1:30 p.m.—Board Business

A. Recruitment Update/Nominations to the Board

B. Report from Chairman Brannon

C. Report from DOE, Ted Taylor, DDFO

D. Report from Executive Director,

Menice S. Manzanares
E. New Business
2:30 p.m.—Break
2:45 p.m.—Reports from Committees
A. Community Outreach Committee, Debra Walsh
B. Monitoring and Surveillance Committee, Jim Brannon
C. Environmental Restoration Committee, Dr. Fran Berting
D. Waste Management Committee, Richard Gale
E. Budget Committee
4:30 p.m.—Amendment #4 to Bylaws (Second Reading)
A. Amendment adding to the ''Functions'' of the Board under Section II, Paragraph A, on Page 1
4:45 p.m.—Dinner Break
6 p.m.—Presentation by Secretary Ron Curry, New Mexico Environment Department
6:45 p.m.—Presentation by Dr. Paul Schumann, ''LANL's Public Involvement Plan'' Recommendation 2002–7 (Included in packet).
7:45 p.m. Break
8 p.m. Board Comment
8 p.m. Board Comment
8:15 p.m. Recap of Meeting
8:30 p.m. Adjourn

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Manzanares at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the beginning of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1660 Old Pecos Trail, Suite B, Santa Fe, NM. Hours of operation for the Public Reading Room are 9 a.m.-4 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Menice Manzanares at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http:www.nnmcab.org.*

Issued at Washington, DC, on April 17, 2003.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 03–10016 Filed 4–22–03; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an Annual Retreat of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Saturday, May 17, 2003, 8 a.m.–4 p.m.

ADDRESSES: Holiday Inn Don Fernando de Taos, 1005 Paseo del Pueblo Sur, Taos, NM.

FOR FURTHER INFORMATION CONTACT: Menice Manzanares, Northern New Mexico Citizens' Advisory Board (NNMCAB), 1660 Old Pecos Trail, Suite B, Santa Fe, NM 87505. Phone (505) 995–0393; fax (505) 989–1752 or e-mail: *mmanzanares@doeal.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Review of FY 2003 NNMCAB work to date and accomplishments.
Presentations by DOE on current and emerging issues in the areas of:
- Environmental Restoration
- Waste Management
- Public Participation

Comments from Environmental Protection Agency (EPA) and the New Mexico Environment Department (NMED) and discussion by the Board
Break for Lunch
Presentations by DOE on major activities in these areas to be proposed in DOE baselines for FY 2004
Discussion by the Board's committees on issues and proposed activities
Development of preliminary NNMCAB Work Plans for FY 2004
Wrap up and Board Member comments
Public Comments

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Manzanares at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the beginning of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1660 Old Pecos Trail, Suite B, Santa Fe, NM. Hours of operation for the Public Reading Room are 9 a.m.–4 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Menice Manzanares at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.org.*

Issued at Washington, DC, on April 15, 2003.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 03–10017 Filed 4–22–03; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory

Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the Federal Register.

DATES: Wednesday, May 14, 2003 6 p.m.

ADDRESSES: DOE Information Center, 475 Oak Ridge Turnpike, Oak Ridge, TN.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, PO Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–5333 or e-mail: *halseypj@oro.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Purpose of the Meeting: The meeting presentation will feature a discussion of the U.S. Department of Energy's (DOE's) Depleted Uranium Hexafluoride (UF6) Cylinder Program at the East Tennessee Technology Park. The purpose of the program is to safely maintain the cylinders of depleted UF6 at the DOE East Tennessee Technology Park until transferred off-site for final disposition or conversion. The presentation will provide a brief history of the program and an update on activities, plans, regulatory milestones, and transportation issues.

Tentative Agenda:

- Discussion of the U.S. Department of Energy's (DOE's) Depleted Uranium Hexafluoride (UF6) Cylinder Program at the East Tennessee Technology Park.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Pat Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Center at 475 Oak Ridge Turnpike, Oak Ridge, TN between 8 a.m. and 5 p.m. Monday through Friday, or by writing to Pat Halsey, Department of Energy Oak Ridge Operations Office, PO Box 2001, EM–90, Oak Ridge, TN 37831, or by calling her at (865) 576–4025.

Issued at Washington, DC, on April 17, 2003.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 03–10018 Filed 4–22–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 03–08–NG, 03–09–NG, 03–10–NG, 01–52–N., et. al]

Transalta Chihuahua S.A. DE C.V., Meadwestvaco Corporation, Progas U.S.A. Inc., Boundary Gas, Inc. El Paso Production Oil & Gas Company, Usgen New England, Inc., El Paso Merchant Energy, L.P., Sempra Energy Trading Corp.; Orders Granting and Vacating Authority to Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during March 2003, it issued Orders granting and vacating authority to import and export natural gas, including liquefied natural gas. These Orders are summarized in the attached appendix and may be found on the FE web site at *http://www.fe.doe.gov* (select gas regulation), or on the electronic bulletin board at (202) 586–7853. They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on April 8th, 2003.

Clifford P. Tomaszewski,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import & Export Activities, Office of Fossil Energy.

Appendix

ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS

Order No.	Date issued	Importer/Exporter Fe Docket No.	Import volume	Export volume	Comments
1855	3–03–03	TransAlta Chichuahua S.A. de C.V. 03–08–NG.	.....	36.135 Bcf	Export natural gas to Mexico, beginning on March 4, 2003 and extending through March 3, 2005.
1856	3–3–03	MeadWestvaco Corporation, 03–09–NG.	120 Bcf	.....	Import natural gas from Canada, beginning on March 10, 2003, and extending through March 9, 2005.
1857	3–17–03	ProGas U.S.A., Inc., 03–10–NG.	800 Bcf	200 Bcf	Import and export natural gas from and to Canada, beginning on April 1, 2003, and extending through March 31, 2005.
1714–A	3–19–03	Boundary Gas, Inc., 01–52–NG.	.....	.....	Vacate blanket import and export authority.
1858	3–20–03	El Paso Production Oil & Gas Company, 03–13–NG.	155 Bcf		Import and export up to a combined total of natural gas from and to Canada, beginning on April 1, 2003, and extending through March 31, 2005.

ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS—Continued

Order No.	Date issued	Importer/Exporter Fe Docket No.	Import volume	Export volume	Comments
1859	3–20–03	USGen New England, Inc., 03–12–NG.	47.5 Bcf		Import and export up to a combined total of natural gas from and to Canada, beginning on March 20, 2003, and extending through March 19, 2005.
1780–A	3–21–03	El Paso Merchant Energy, L.P., 2–26–LNG.	.....	.....	Vacate long-term import authority.
1860	3–27–03	Sempra Energy Trading Corp., 03–11–NG.	300 Bcf	300 Bcf	Import and export up to a combined total of natural gas from and to Canada, and import and export up to a combined total of natural gas from and to Mexico, beginning on June 16, 2003, and extending through June 15, 2005.

[FR Doc. 03–10020 Filed 4–22–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–36–002]

Dauphin Island Gathering Partners; Notice of Negotiated Rates

April 17, 2003.

Take notice that on April 14, 2003, Dauphin Island Gathering Partners (Dauphin Island) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed below to become effective April 1, 2003. Dauphin Island states that these tariff sheets reflect changes to Maximum Daily Quantities (MDQ's) and a shipper name. In addition, a correction was made to one rate.

Thirteenth Revised Sheet No. 9
Tenth Revised Sheet No. 10

Dauphin Island states that copies of the filing are being served contemporaneously on all participants listed on the service list in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or 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. 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)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 28, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–9992 Filed 4–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–059]

Gulf South Pipeline Company, LP; Notice of Negotiated Rate Filing

April 17, 2003.

Take notice that on April 11, 2003, Gulf South Pipeline Company, LP (Gulf South) filed with the Commission contracts between Gulf South and the following company for disclosure of a recently negotiated rate transaction. As shown on the contract, Gulf South requests an effective date of June 1, 2003.

Special negotiated rate between Gulf South Pipeline Company, LP and Calpine Central, LP, Contract Nos. 29048 and 29896.

Gulf South states that it has served copies of this filing upon all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or 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. 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)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 23, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–9993 Filed 4–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–040]

PG&E Gas Transmission, Northwest Corporation; Notice of Negotiated Rates

April 17, 2003.

Take notice that on April 14, 2003, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing to be part of its FERC Gas Tariff, Second Revised Volume No. 1–A, Ninth Revised Sheet No. 15, with an effective date of April 12, 2003.

GTN states that this sheet is being filed to reflect the implementation of one Negotiated Rate Agreement.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or 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. 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)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 28, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–9995 Filed 4–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–041]

PG&E Gas Transmission, Northwest Corporation; Notice of Negotiated Rates

April 17, 2003.

Take notice that on April 15, 2003, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing to be part of its FERC Gas Tariff, Second Revised Volume No. 1-A, Tenth Revised Sheet No. 15, with an effective date of April 15, 2003.

GTN states that this sheet is being filed to reflect the implementation of one Negotiated Rate Agreement.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or 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. 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)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 28, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–9996 Filed 4–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RT01–99–000, RT01–99–001, RT01–99–002, RT01–99–003, RT01–86–000, RT01–86–001, RT01–86–002, RT01–95–000, RT01–95–001, RT01–95–002, RT01–2–000, RT01–2–001, RT01–2–002, RT01–2–003, RT01–98–000, and RT02–3–000]

Regional Transmission Organizations, Bangor Hydro-Electric Company, et al., New York Independent System Operator, Inc., et al., PJM Interconnection, L.L.C., et al., PJM Interconnection, L.L.C., ISO New England, Inc. New York Independent System Operator, Inc.; Notice

April 17, 2003.

Take notice that PJM Interconnection, L.L.C., New York Independent System Operator, Inc. and ISO New England, Inc. have posted on their internet websites charts and information updating their progress on the resolution of ISO seams.

Any person desiring to file comments on this information should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such comments should be filed on or before the comment date. Comments 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: May 8, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 03–9997 Filed 4–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–513–026]

Questar Pipeline Company; Notice of Negotiated Rates

April 17, 2003.

Take notice that on April 14, 2003, Questar Pipeline Company's (Questar) tendered for filing a tariff filing to correct a contract quantity under a negotiated-rate contract for Dominion Exploration & Production, Inc.

Questar states that its negotiated-rate contract provisions were authorized by

Commission orders issued October 27, 1999, and December 14, 1999, in Docket Nos. RP99–513, *et al.*, and that the Commission approved Questar's request to implement a negotiated-rate option for Rate Schedules T–1, NNT, T–2, PKS, FSS and ISS shippers.

Questar states that it submits its negotiated-rate filing in accordance with the Commission's Policy Statement in Docket Nos. RM95–6–000 and RM96–7–000 issued January 31, 1996.

Questar further states that a copy of this filing has been served upon all parties to this proceeding, Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or 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. 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)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 28, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–9994 Filed 4–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL03–118–000 and QF85–643–004]

Wilbur Power LLC; Notice of Application for Recertification as a Qualifying Cogeneration Facility, Request for Waiver of QF Operating and Efficiency Standards and Request for Expedited Treatment

April 17, 2003.

Take notice that on March 25, 2003, Wilbur Power LLC, filed with the Federal Energy Regulatory Commission (Commission) an Application for Recertification as a Qualifying Cogeneration Facility, Request for Waiver of QF Operating and Efficiency Standards, and Request for Expedited Treatment, pursuant to Sections 292.207(b) and 292.205(c) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

Wilbur Power LLC, states that the facility is a 49 MW, natural gas fired, topping-cycle cogeneration facility (the Facility) located in Antioch, California, and the Facility is interconnected with the electric system of Pacific Gas and Electric Company and power from the Facility will be sold to Pacific Gas and Electric Company.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: April 24, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–9989 Filed 4–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, Protests, Recommendations, and Terms and Conditions

April 17, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 12432–000.

c. *Date filed:* January 17, 2003, supplemented March 24, 2003.

d. *Applicant:* Jeffery P. Comer and Jack Goodman.

e. *Name of Project:* Goodco Power Hydroelectric Project.

f. *Location:* The project would be located in Twin Falls County, Idaho, on an existing wastewater ditch supplied by irrigation flows and by seep streams. The irrigation water comes from the Low Line Canal, which conveys water diverted from the Snake River at Milner Dam.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Tom McCauley, PO Box 175, Buhl, ID 83316, (208) 308–5050.

i. *FERC Contact:* James Hunter, (202) 502–6086.

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. Deadline for filing responsive documents: Pursuant to Section 4.34(b) of the Commission's Regulations, all comments, motions to intervene, protests, recommendations, terms and conditions, and prescriptions concerning the application are to be filed with the Commission by May 19,

2003. All reply comments must be filed with the Commission by June 2, 2003.

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.

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.

l. *Description of Project:* The proposed project would consist of: (1) An existing 50 -foot-long, 25-foot-wide, 6-foot-deep concrete diversion structure adjacent to the wastewater ditch, (2) a 12-inch-diameter, one-half-mile-long pipeline, (3) a powerplant consisting of one or two generating units with a total installed capacity of 25 kilowatts, and (4) a discharge conduit returning flows to an irrigation lateral. The average annual generation would be 150 megawatt hours.

m. 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 (P–12432) 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 may also be obtained by calling the Applicant Contact.

n. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

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. Protests or Motions to Intervene—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.

q. All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (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. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required 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, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Magalie R. Salas,

Secretary.

[FR Doc. 03–9990 Filed 4–22–03; 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

April 17, 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 Remove Transmission lines and Related Electrical Equipment from the Project Boundary.

b. *Project No:* 2197–057.

c. *Date Filed:* December 10, 2002.

d. *Applicant:* Alcoa Power Generating Inc.

e. *Name of Project:* Yadkin.

f. *Location:* The project is located on the Yadkin River, in Stanley, Montgomery, Davidson, and Rowan Counties, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Alcoa Power Generating Inc.(APGI), Yadkin Division, 293 NC 740 Hwy, PO Box 576, Badin, NC 28009–0576, (704) 422–5606.

i. *FERC Contact:* Any questions on this notice should be addressed to Mrs. Anumzziatta Purchiaroni at (202) 502–6191, or e-mail address: *anumzziatta.purchiaroni@ferc.gov*.

j. *Deadline for filing comments and or motions:* May 19, 2003.

k. *Description of Request:* APGI is proposing to remove: (a) Two single circuit 100-kV transmission lines, (0.3 mile-long each), that run into and out of the Tuckertown Development, (b) a single circuit 100-kV transmission line (15 miles long), that runs from the High Rock Development through the Tuckertown Development, and then continues to the Badin Works in Badin; and (c) related electrical and non-electrical equipment necessary for the operation of these lines. APGI asserts that these transmission facilities function as part of the integrated regional transmission system in the region carrying both Yadkin Project power and non-project power. In addition, APGI proposes to remove from the project certain telephone lines that run with the identified transmission

lines, because they have been replaced by the use of fiber optic cable.

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, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (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. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 03–9991 Filed 4–22–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI–2003–0027, FRL–7488–1]

Agency Information Collection Activities: Proposed Collection; Comment Request; State Laboratory Capacity and Capability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) will be forwarded to the Office of Management and Budget (OMB) for review and approval: State Laboratory Capacity and Capability (EPA ICR No. 2110.01). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below. EPA also solicits comment on its intention to seek an emergency clearance from OMB to begin collecting data from State Environmental Laboratories and select State Agriculture and State Public Health Laboratories.

DATES: Comments must be submitted on or before May 14, 2003. If EPA does not receive adverse comments on or before this date regarding EPA's request for emergency clearance, EPA intends to seek a 180-day emergency clearance from OMB to begin collecting information from State Laboratories.

ADDRESSES: Follow the detailed instructions in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Don Flattery, U.S. EPA, Office of Environmental Information (2810–A), 1200 Pennsylvania Ave, NW., Washington DC 20460. Phone: (202) 564–4677; fax (202) 501–1622; e-mail: *flattery.don@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number OEI–2003–0027, which is available for public viewing at the Office of Environmental Information Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Office of Environmental Information Docket is (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 21 days of this notice, and according to the following detailed instructions: (1) Submit your comments to EPA online using EDOCKET (our preferred method), by email to *oei.docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Office of Environmental Information Docket, 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) Mail your comments to OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in

EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: State Laboratory Capacity and Capability, EPA ICR Number 2110.01. This is a request for a new information collection, and a notification that EPA will seek an emergency clearance from OMB to begin collecting information.

Abstract: In early 2003, EPA completed a compendium of Laboratory Capability and Capacity. The compendium, available to EPA's emergency response community and select managers and staff, is contained in a data base that allows queries based on analytical capabilities, instrumentation, special handling abilities and location. This useful information was developed through a survey issued to EPA's thirty-four fixed and two mobile laboratories. EPA has been asked by the Department of Homeland Security to pursue development of subsequent phases of this compendium to collect identical information from State laboratory sources. When complete, this information will result in a resource available to select State, local and federal entities involved in response to terrorist incidents involving unknown or suspected chemical, biological or radiological agents. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Burden Statement: The one time public reporting and recordkeeping burden for this collection of information is estimated to average 4.0 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 50 States.

Estimated Number of Respondents: 100.

Frequency of Response: Two per State.

Estimated Total Annual Hour Burden: 400 hours.

Estimated Total Annual Cost: $30,000; includes $6,000 O&M costs and $0 capital and startup costs.

E. Ramona Trovato,

Deputy Assistant Administrator, Office of Environmental Information.

[FR Doc. 03–10164 Filed 4–22–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2003–0004; FRL–7293–1]

Access to Confidential Business Information by Optimus Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized prime contractor Optimus Corporation and its subcontractor, Centerscope Technologies of 8601 Georgia Avenue, Silver Spring, MD access to information which has been submitted to EPA under sections 4, 5, 6, 7, and 12 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data submitted to EPA under sections 4, 5, 6, 7, and 12 of TSCA occurred as a result of an approved waiver dated March 31, 2003.

FOR FURTHER INFORMATION CONTACT: Barbara A. Cunningham, Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@.epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under TSCA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of This Document and Other Related Documents?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT–2003–0004. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include CBI or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to

access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. What Action is the Agency Taking?

Under Contract number 68–W–03–034 Optimus Corporation and Centerscope Technologies, of 8601 Georgia Avenue, Silver Spring, MD will assist EPA in processing 12(b) export notices submitted under sections 4, 5, 6, 7, and 12 of TSCA and issuing notification letters to foreign governments.

In accordance with 40 CFR 2.306(j), EPA has determined that under Contract number 68–W–03–034, Optimus Corporation and Centerscope Technologies will require access to CBI submitted to EPA under sections 4, 5, 6, 7, and 12 of TSCA, to perform successfully the duties specified under the contract.

Optimus Corporation and Centerscope Technologies personnel were given access to information submitted to EPA under sections 4, 5, 6, 7, and 12 of TSCA. Some of the information may be claimed or determined to be CBI.

Optimus Corporation and Centerscope Technologies were granted a waiver March 31, 2003. This waiver was necessary to allow Optimus Corporation and Centerscope Technologies to assist the Office of Pollution Prevention and Toxics (OPPT) in the activities listed above.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, 7, and 12 of TSCA, that the Agency may provide Optimus Corporation and Centerscope Technologies access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and Optimus Corporation's site at 801 Roeder Road, Suite 600, Silver Spring, MD. However, access will not occur at Optimus' Silver Spring, MD facility until after it has been inspected and approved for the storage of TSCA CBI.

Optimus Corporation and Centerscope Technologies personnel will be required to adhere to all provisions of EPA's ''TSCA Confidential Business Information Security Manual.''

Clearance for access to TSCA CBI under Contract number 68–W–03–034 may continue until March 31, 2008.

Optimus Corporation and Centerscope Technologies personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: April 14, 2003.

Allan S. Abramson,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 03–9748 Filed 4–22–00; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0131; FRL–7302–9]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket ID number OPP–2003–0131, must be received on or before May 23, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Dennis McNeilly, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–6742; e-mail address: mcneilly.dennis@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

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

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0131. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in

printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at http://www.epa.gov/edocket, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0131. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to opp-docket@epa.gov, Attention: Docket ID Number OPP–2003–0131. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency (7502C), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2003–0131.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA., Attention: Docket ID Number OPP–2003–0131. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI To the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the registration activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.ation Applications

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients not Included in any Previously Registered Products

1. *File Symbol*: 264–TIA. *Applicant*: Bayer CropScience, P.O. Box 12014 2TW Alexander Drive, Research Triangle Park, NC 27709. *Product Name*: HEC 480 SC Fungicide. Fungicide. *Active ingredient*: Fluoxastrobin at 40.3%. *Proposed classification/Use*: None. For use on peanuts, potato and tuber vegetables, leafy vegetables (non-brassica, petioles subgroup), fruiting vegetables, seed treatment (potato, peanut, and turf).

2. *File Symbol*: 264–TIT. *Applicant*: Bayer CropScience. *Product Name*: HEC 480 SC Fungicide. Fungicide. *Active ingredient*: Fluoxastrobin at 94.8%. *Proposed classification/Use*: None. For formulation purposes only.

3. *File Symbol*: 400–LRE. *Applicant*: Crompton Manufacturing Company, 74 Amity Road, Bethany, CT 06524–3402. *Product Name*: Ipconazole Technical. Fungicide. *Active ingredient*: Ipconazole at 97.4%. *Proposed classification/Use*: None. For formulation into end-use seed treatment products.

4. *File Symbol*: 7501–ROL. *Applicant*: Gustafson, LLC., 1400 Preston Road, Suite 400, Plano, TX 75093. *Product Name*: Vortex Seed Treatment Fungicide. Fungicide. *Active ingredient*: Ipconazole at 40.7%. *Proposed classification/Use*: None. For use on root and tuber vegetables, leafy vegetables (except brassica vegetables, brassica (cole) leafy vegetables, cucurbits, cereal grains, grass forage, grass fodder, grass hay, non-grass animal feeds, cotton, sunflower, mustard, rape, canola, ornamental flowers, and conifers.

5. *File Symbol*: 71049–R. *Applicant*: KIM-C1, LLC., 6333 East Liberty Ave., Fresno, CA 93727. *Product Name*: KT-30 Plant Growth Regulator. Plant Growth Regulator. *Active ingredient*: CPPU(*N*-(2-chloro-4-pyridinyl)-*N*-phenyl urea) at 98%. *Proposed classification/Use*: None. For use on grapes and kiwi.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: April 9, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 03–9747 Filed 4–22–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0049; FRL–7302–5]

Rodenticides; Availability of Preliminary Comparative Ecological Assessment; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA issued a notice in the **Federal Register** of January 29, 2003, concerning availability and public comment period on the Preliminary Comparative Ecological Assessment document for nine rodenticides, which included those addressed in the Reregistration Eligibility Decisions (REDs) for the rodenticide cluster (brodifacoum, bromadiolone, bromethalin, chlorophacinone, diphacinone, and zinc phosphide), as well as three other rodenticides, warfarin, difethialone, and cholecalciferol. This document is reopening the comment period for 60 days, from March 31, 2003, to May 30, 2003.

DATES: Comments, identified by docket ID number OPP–2002–0049 must be received on or before May 30, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION** of the January 29, 2003 **Federal Register** document.

FOR FURTHER INFORMATION CONTACT: John W. Pates, Jr., Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703–308–8195; e-mail address: pates.john@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

The Agency included in the **Federal Register** notice of January 29, 2003 (68 FR 4468) (FRL–7280–6), a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0049. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/. In addition, copies of the preliminary comparative ecological assessment for the nine rodenticides may also be accessed at http://www.epa.gov/pesticides/rodenticidecluster.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

C. How and To Whom Do I Submit Comments?

To submit comments, or access the official public docket, please follow the detailed instructions as provided in Unit I.C. of the **Federal Register** of the January 29, 2003 document. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. What Action is EPA Taking?

This document reopens the public comment period established in the **Federal Register** of January 29, 2003. In that document, EPA announced the availability of the preliminary comparative ecological assessment for nine rodenticides and invited comment on issues directly associated with the nine rodenticides that were included in the assessment. Due to the many requests received for additional time to comment, EPA is hereby reopening the comment period, which was set to end on March 31, 2003, to May 30, 2003.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: April 8, 2003.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 03–10070 Filed 4–22–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0129; FRL–7303–1]

Fluoxastrobin; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2003–0129, must be received on or before May 23, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Dennis McNeilly, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–6742; e-mail address: mcneilly.dennis@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

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

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0129. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr.

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

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

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Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public

docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

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1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at http://www.epa.gov/edocket, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0129. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to opp-docket@epa.gov, Attention: Docket ID Number OPP–2003–0129. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2003–0129.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2003–0129. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 15, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Bayer CropScience

PP 3F6556

EPA has received a pesticide petition (3F6556) from Bayer CropScience, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of fluoxastrobin; 2-[[6-(2-chlorophenoxy)-5-fluoro-4-pyrimidinyl]oxy]phenyl (5,6-dihydro-1,4,2-dioxazin-3-yl)methanone-O-methyloxime in or on the raw agricultural commodities (RACs) alfalfa, forage at 0.05 parts per million (ppm), alfalfa, hay at 1.0 ppm, cotton, gin byproducts at 0.02 ppm, grain, cereal, forage at 0.10 ppm, grain, cereal, hay at 0.10 ppm, grain, cereal, straw at 0.10 ppm, grain, cereal, stover at 0.10 ppm, grass, forage at 0.10 ppm, grass, hay at 0.50 ppm, legume, seed at 0.01 ppm, legume, forage at 0.05 ppm, legume, hay at 0.05 ppm, peanut at 0.01 ppm, peanut, hay at 20 ppm, peanut, refined oil at 0.10 ppm, tomato, paste at 2.0 ppm, vegetable, fruiting, group at 1.0 ppm, vegetable, leafy, petioles, except brassica, subgroup at 5.0 ppm, and vegetable, tuberous and corm, subgroup at 0.01 ppm. Fluoxastrobin; 2-[[6-(2-chlorophenoxy)-5-fluoro-4-pyrimidinyl]oxy]phenyl (5,6-dihydro-1,4,2-dioxazin-3-yl)methanone-O-methyloxime, and its phenoxy-hydroxypyrimidine metabolite; 6-(2-chlorophenoxy)-5-fluoro-4-pyrimidinol in or on the RACs cattle, fat at 0.10 ppm, cattle, meat at 0.05 ppm, cattle, meat byproducts at 0.20 ppm, milk at 0.01 ppm, and milk, fat at 0.10 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of fluoxastrobin in plants is adequately understood. Studies have been conducted to delineate the metabolism of radiolabeled fluoxastrobin in peanut, tomato, spring wheat, and various representative rotational crops, all showing similar results. The residue of concern is parent fluoxastrobin (sum of E and Z isomers).

2. *Analytical method*. Adequate analytical methodology using liquid chromatography/mass spectrometer/mass spectromer (LC/MS/MS) detection is available for enforcement purposes.

3. *Magnitude of residues*. Complete residue data exists for fluoxastrobin on these crops and crop groupings. Magnitude of residue trials were conducted on peanut, potato, celery, tomato, pepper, and the rotational crops of alfalfa, cotton, cereal grains (corn, rice, sorghum and wheat), soybeans, other legume vegetables, and grasses. A cattle feeding study was performed in order to determine residues in meat and milk commodities. The data support the proposed tolerances.

B. Toxicological Profile

1. *Acute toxicity*. Oral and dermal lethal dose $(LD)_{50}$ values were >2,000 milligrams/kilogram bodyweight (mg/kg) (bwt). Inhalation lethal concentrations $(LC)_{50}$ values were >4,998 milligrams/meters (mg/m^3) air. Fluoxastrobin technical was not irritating to rabbit skin, was moderately irritating to eyes in rabbits, and was non-sensitizing dermally in the Magnusson/Kligman maximization test in guinea pigs. Acute toxicity studies for fluoxastrobin support an overall Toxicity Category III.

2. *Genotoxicity*. Several genotoxicity tests were conducted to test for point-mutagenic activity, chromosome aberration *in vitro* and *in vivo*, and for DNA repair. All tests conducted were negative, indicating no evidence of mutagenic or genotoxic potential.

3. *Reproductive and developmental toxicity*. An oral developmental toxicity study in rat did not reveal any evidence of teratogenic potential. The maternal no observed adverse effect level (NOAEL) was 300 mg/kg and the developmental NOAEL was 1,000 mg/kg bwt/day. An oral developmental toxicity study in rabbits demonstrated a maternal NOAEL of 25 mg/kg bwt/day, a developmental NOAEL of 100 mg/kg bwt/day and did not reveal any teratogenic potential. A 2-generation study in rats, with a parental toxicity NOAEL of 73.7 mg/kg bwt/day for males and 86.7 mg/kg bwt/day for females, did not reveal evidence of a primary reproductive toxicity potential. The reproductive NOAEL was 763.6 mg/kg bwt/day for males and 806.5 mg/kg bwt/day in females.

4. *Subchronic toxicity*. A subchronic toxicity feeding study with rats over 90 days demonstrated a NOAEL of 7.3 and 18.3 mg/kg bwt/day for males and females, respectively, based on reduced body weights and alterations in several urinary tract-related clinical chemistry parameters, at the higher dose levels. In a subchronic feeding study in mice over 14 weeks, a NOAEL was not established based on decreased alanine aminotransferase (ALAT) and increased absolute and relative liver weights at the low dose level (21.7 and 35.3 mg/kg bwt/day for males and females respectively). A 14-week feeding study in dogs demonstrated a NOAEL of 3.0 mg/kg bwt/day based on decreased body weights and food consumption, and liver effects (enzyme induction, increased liver weights, cytoplasmic change), and thyroid effects (decreased T3)

5. *Chronic toxicity*. A 24-month chronic/oncogenicity feeding study in rats demonstrated a NOAEL of 53.0 and 35.2 mg/kg bwt/day for males and females, respectively. An oncogenicity study in the mouse revealed a NOAEL of 18.5 and 29.5 mg/kg bwt/day for males and females, respectively based on liver effects. There was no indication in the rat or mouse for an oncogenic effect of fluoxastrobin. A 1-year feeding study with dogs demonstrated a NOAEL of 1.7 and 1.5 mg/kg bwt/day for males and females, respectively based on decreased body weights and slight liver effects (increased alkaline phosphatase (Aph) and liver weights).

6. *Animal metabolism*. Metabolism and pharmacokinetic studies in the rats, lactating goats, and laying hens demonstrate that fluoxastrobin residues are rapidly absorbed, metabolized, and eliminated. There was no evidence of accumulation of residues in any tissues or organs. The metabolic pattern was always complex and numerous metabolites were identified. The main metabolic reactions, however, are very comparable for all tested animal species and most metabolites were present at low levels. Based on the available metabolism data, fluoxastrobin and phenoxy-hydroxypyrimidine are the proposed residues of concern in animals.

7. *Metabolite toxicology*. The residues of concern are fluoxastrobin its

phenoxy-hydroxypyrimidine metabolite. This metabolite was investigated for acute oral toxicity and point mutagenic activity in a bacterial reverse mutation assay. The phenoxy-hydroxypyrimidine metabolite did not show mutagenic activity in the reverse mutation assay and the oral LD_{50} was >300 <500 mg/kg body weight.

8. *Endocrine disruption*. There is no evidence to suggest that fluoxastrobin has any primary endocrine disruptive potential. Reproductive and developmental findings provided no evidence of an enhanced sensitivity of the young.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Acute and chronic dietary analyses were conducted to estimate exposure to potential fluoxastrobin residues in/on the following crops and crop groups: celery, fruiting vegetables, peanuts, and potatoes. Rotational crops included in the analysis are alfalfa, grasses, legume vegetables, foliage of legume vegetables, cereal grains, and cotton. Tier I analysis were conducted for both the acute and chronic scenarios using the Dietary Exposure Evaluation Model (DEEM) (Exponent, Inc.) software. The acute dietary exposure estimates at the 95th percentile of exposure for the U.S. population was 1.4% of the acute reference dose (RfD). The population subgroup with the highest exposure was children 1 to 6 at 2.7% of the acute RfD. Chronic dietary exposure estimates from potential residues of fluoxastrobin for the U.S. population was 6.5% of the chronic RfD. The subpopulation with the highest exposure was children 1 to 6 with 12.7% of the chronic RfD used. Tier I assessments use tolerance residue values and 100% crop treated. These can be considered very conservative values.

ii. *Drinking water*. EPA's Standard Operating Procedure (SOP) for Drinking Water Exposure and Risk Assessments was used to perform the drinking water analysis for fluoxastrobin. This SOP utilizes a variety of tools to conduct drinking water assessment. These tools include water models such as Screening Concentration in Groundwater (SCI-GROW), Generic Estimate Exposure Concentration (GENEEC), Pesticide Root Zone Model-Exposure Analysis Modeling Systems (PRZM/EXAMS), and monitoring data. If monitoring data are not available then the models are used to predict potential residues in surface water and ground water. In the case of fluoxastrobin, monitoring data do not exist, therefore, PRZMS/EXAMS and SCI-GROW models were used to estimate a drinking water residue. The calculated drinking water levels of comparison (DWLOC) for acute and chronic exposures for all adults and children exceed the modeled fluoxastrobin drinking water estimated concentrations (DWECs). The acute DWLOC values are 8,624 parts per billion (ppb) for adults and 2,433 ppb for children. The worst-case DWEC for acute scenarios is calculated to be 58 ppb using the PRZMS/EXAMS surface water model. The chronic DWLOC values are 491 ppb for adults and 131 ppb for children. The DWEC for the worst-case chronic scenario is 28 ppb PRZM/EXAMS.

2. *Non-dietary exposure*. Residential (non-dietary) exposure is limited to post-application exposure of fluoxastrobin from professional applications to residential turf and golf courses. Using the very conservative EPA SOPs for residential exposure a margin of exposure (MOE) of 7,143 was calculated for the youth golfer scenario. Adult and toddler reentry to treated turf MOEs were 784 and 468 respectively.

Aggregate exposure considers all exposures from food, drinking water, and residential uses together. Probabilistic models and methods as well as refined data for these scenarios are under development. In the interim, as a screening level analysis a worst-case deterministic calculation can be considered. For fluoxastrobin this would consist of a child (1 to 6) who has a chronic dietary exposure to potential residues in food and also plays on a maximally treated lawn (after 4 applications) on a particular day. The childs lawn exposure includes estimates of dermal exposure and oral exposure from hand to mouth, object to mouth and soil ingestion SOP scenarios. The childs estimated dose from the lawn exposure is 0.0194 mg/kg bwt/day. The child 1 to 6 chronic dietary exposure estimate is 0.001907 mg/kg bwt/day. The total dose for a child 1 to 6 with this worst-case exposure is 0.0213 mg/kg bwt/day or 8.5% of the acute RfD. The resulting aggregate acute DWLOC is 2,287 ppb still well above the acute DWEC of 58 ppb. Total adult exposure (average dietary and dermal lawn) is 0.004804 mg/kg bwt/day or 1.9% of the acute RfD. The resulting aggregate acute DWLOC for adults is 17,164 ppb.

D. Cumulative Effects

Fluoxastrobin is a novel strobilurin analog. Bayer will submit information, if necessary, for EPA to consider concerning potential cumulative effects of fluoxastrobin consistent with the schedule established by EPA in the **Federal Register** of August 4, 1997 (62 FR 42020) (FRL–5734–6), and other EPA publications pursuant to the Food Quality Protection Act (FQPA).

E. Safety Determination

1. *U.S. population*. Using the conservative assumptions described above, based on the completeness and reliability of the toxicity data it is concluded that aggregate exposure to the proposed uses of fluoxastrobin will utilize at most 1.9% of the RfD for the U.S. population, and is likely to be much less as more realistic data and models are developed. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. DWLOC based on this exposure are much greater than conservative estimated concentrations, and would be expected to be well below the 100% level, if they occur at all. Therefore, there is a reasonable certainty that no harm will occur to the U.S. population from aggregate exposure to fluoxastrobin.

2. *Infants and children*. Consideration of the toxicology data base as described above leads to no additional concerns for infants and children. Therefore the FQPA safety factor can be established at 1X. Using the conservative exposure assumptions described in the exposure section above, the percent of the RfD that will be used for short-term aggregate exposure to residues of fluoxastrobin will be 8.5% for children 1 to 6 (the most highly exposed sub-group). This value is based on a worst-case aggregate exposure calculation of a child 1 to 6 who has a background dietary exposure to potential residues and plays on a maximally treated lawn. As in the adult situation, DWLOC are much higher than the worst-case DWECs and would be expected to use well below 100% of the RfD, if they occur at all. Therefore, there is a reasonable certainty that no harm will occur to infants and children from aggregate exposure to residues of fluoxastrobin.

F. International Tolerances

Codex maximum residue levels are not yet established for fluoxastrobin.

[FR Doc. 03–9746 Filed 4–22–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0117; FRL–7301–9]

Experimental Use Permit; Receipt of Amendment/Extension Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application 52–EUP–93 from Monsanto Company requesting an amendment/extension of an experimental use permit (EUP) for the *Bacillus thuringiensis* Cry3Bb1 protein and the genetic material necessary for its production (vector ZMIR13L) in corn. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments, identified by docket ID number OPP–2003–0117, must be received on or before May 23, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Mike Mendelsohn, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8715; e-mail address: mendelsohn.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are interested in agricultural biotechnology or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0117. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the

comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at http://www.epa.gov/edocket, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0117. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to opp-docket@epa.gov, Attention: Docket ID Number OPP–2003–0117. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2003–0117.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2003–0117. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI To the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

Monsanto has applied to test *Bacillus thuringiensis* Cry3Bb1 protein and the genetic material necessary for its production (vector ZMIR13L) in corn on 2,304 acres in Alabama, Arizona, California, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Mississippi, Montana, North Carolina, North Dakota, Nebraska, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Puerto Rico, South Dakota, Tennessee, Texas, Utah, Virginia, and Wisconsin for breeding and observation nursery, inbred seed increase production, line per se and hybrid yield, insect efficacy, product characterization and performance/labeling, insect resistance management, non-target organism and benefit, and seed treatment trials. This plant-incorporated protectant is being tested against corn rootworm species. The tolerance exemption under 40 CFR 180.1214 applies to this plant-incorporated protectant. A tolerance exemption in 40 CFR part 180 applies to the associated marker gene and its product, which the Agency considers a plant-incorporated protectant inert ingredient.

III. What Action is the Agency Taking?

Following the review of the Monsanto Company application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

IV. What is the Agency's Authority for Taking this Action?

The specific legal authority for EPA to take this action is under FIFRA section 5.

List of Subjects

Environmental protection, Experimental use permits.

Dated: April 11, 2003.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 03–10069 Filed 4–22–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7486–6]

Proposed Administrative Past Cost Settlement Under Section 122(h)(1) of the Comprehensive Environmental Response Compensation and Liability Act; In the Matter of Ohio Drum Superfund Site, Cleveland, OH

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Ohio Drum Superfund Site (''the Site'') in Cleveland, Ohio, with four companies: United States Steel, United States Gypsum, Waterlox Coatings Corporation, and Youngstown Barrel & Drum Company (''the settling parties''). The settlement requires United States Steel to pay $60,000.00 to the Hazardous Substance Superfund. United States Gypsum will pay $40,000.00 to the Hazardous Substance Superfund. Waterlox Coatings Corporation will pay $5000.00 to the Hazardous Substance Superfund. Youngstown Barrel & Drum Company will pay $25,000.00 to the Hazardous Substance Superfund.

Under the terms of the settlement, the settling parties agree to pay their respective settlement amounts. In exchange for their payments, the United States covenants not to sue or take administrative action pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), to recover costs that the United States paid in connection with the Site through February 1, 2003. In addition, the settling parties are entitled to protection from contribution actions or claims as provided by sections 113(f) and 122(h)(4) of CERCLA, 42 U.S.C. 9613(f) and 9622(h)(4), for response costs incurred by any person at the Site through February 1, 2003.

For thirty (30) days after the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

DATES: Comments must be submitted on or before May 23, 2003.

ADDRESSES: Comments should reference the Ohio Drum Superfund Site, Cleveland, Ohio, and EPA Docket No. V–W–03–C–738, and should be addressed to Mark Geall, Associate Regional Counsel, U.S. EPA, Mail Code C–14J, 77 W. Jackson Blvd., Chicago, Illinois, 60604. The Agency's response to any comments received will be available for public inspection at EPA's Region 5 Office at 77 West Jackson Boulevard, Chicago, Illinois, 60604, and at the Cleveland Public Library, Cleveland, Ohio. The proposed settlement is available for public inspection at EPA's Record Center, 7th floor, 77 W. Jackson Blvd., Chicago, Illinois, 60604. A copy of the proposed settlement may be obtained from Mark Geall, Associate Regional Counsel, U.S. EPA, Mail Code C–14J, 77 W. Jackson Blvd., Chicago, Illinois, 60604, telephone (312) 353–9538.

FOR FURTHER INFORMATION CONTACT: Mark Geall, Associate Regional Counsel, U.S. EPA, Mail Code C–14J, 77 W. Jackson Blvd., Chicago, Illinois, 60604, telephone (312) 353–9538.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601, *et seq.*

Dated: April 3, 2003.

William E. Muno,

Director, Superfund Division.

[FR Doc. 03–10068 Filed 4–22–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 03–11; FCC 03–81]

Application by Qwest Communications International, Inc. for Authorization To Provide In-Region, InterLATA Services in New Mexico, Oregon and South Dakota

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In the document, the Federal Communications Commission (Commission) grants the section 271 application of Qwest Communications International, Inc. for authorization to provide in-region, interLATA services in New Mexico, Oregon and South Dakota. The Commission grants Qwest's application based on its conclusion that Qwest has satisfied all of the statutory requirements for entry, and fully opened its local exchange markets to competition.

DATES: Effective date April 25, 2003.

FOR FURTHER INFORMATION CONTACT: Kimberly Cook, Attorney-Advisor, Wireline Competition Bureau, at (202) 418–7532 or via the Internet at *kcook@fcc.gov*. The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. Further information may also be obtained by calling the Wireline Competition Bureau's TTY number: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in WC Docket No. 03–11, FCC 03–81, adopted April 15, 2003 and released April 15, 2003. The full text of this order may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*. It is also available on the Commission's website at *http://www.fcc.gov/Bureaus/Common_Carrier/in-region_applications/qwest_nm_or_sd/welcome.html*.

Synopsis of the Order

1. *History of the Application*. On January 15, 2003, Qwest filed an application, pursuant to section 271 of the Telecommunications Act of 1996, with the Commission to provide in-region, interLATA service in the states of New Mexico, Oregon and South Dakota.

2. *The State Commissions' Evaluation*. The New Mexico Public Regulation Commission, Public Utility Commission of Oregon and the South Dakota Public Utilities Commission (State Commissions) following an extensive review process, advised the Commission that Qwest met the checklist requirements of section 271 and has taken the statutory steps to open its local markets in each state to competition. Consequently, the state commissions recommended that the Commission approve Qwest's in-region, interLATA entry in their evaluations.

3. *The Department of Justice's Evaluation*. The Department of Justice filed its evaluation of Qwest's application on February 20, 2003 in which it recommended approval of the application subject to the Commission satisfying itself regarding Qwest's compliance with Track A in New Mexico. The Department of Justice

further noted that Qwest should clarify its position concerning several complaints of WorldCom concerning Qwest's operations support systems (OSS) and that the Commission should carefully review that response.

Primary Issues in Dispute

4. *Compliance with Section 271(c)(1)(A).* Based on the record, the Commission finds that Qwest satisfies the requirements of section 271(c)(1)(A) in New Mexico, Oregon and South Dakota based on the interconnection agreements it has implemented with competing carriers in those states. The Oregon and South Dakota Commissions found that Qwest satisfies the requirements of Track A in these states. The New Mexico Commission found that Qwest complied with Track A for business subscribers, but deferred the issue of Qwest's compliance with Track A for residential customers to the Commission.

5. The record shows that Qwest relies on interconnection agreements with AT&T Broadband Phone of Oregon, AT&T Corp. (fka TCG-Oregon), Black Hills FiberCom, Brooks Fiber of New Mexico, Cricket Communications, Eastern Oregon Telecom, McLeodUSA, Northern Valley Communications, and Time Warner Telecom of New Mexico in support of its Track A showing for these three states.

6. The Commission finds that, in New Mexico, Cricket Communications, a PCS provider, serves more than a *de minimis* number of residential users over its own facilities and, for purposes of section 271 compliance represents an actual commercial alternative to Qwest for residential telephone exchange services. The Commission determines that Cricket Communications' residential broadband PCS offering in New Mexico is a ''telephone exchange service'' for purposes of Track A. The Commission further concludes that the evidence submitted by Qwest adequately demonstrates that more than a *de minimis* number of Cricket customers use their service in lieu of wireline telephone service. The evidence shows that Cricket's marketing efforts stress that its product is a substitute for residential local telephone service. In addition, the Commission concludes that Qwest's survey demonstrates that Cricket customers use Cricket service in lieu of wireline telephone service. The Commission finds that the survey was random, and contains statistical analysis of sufficient quality to allow the Commission to rely on it for the purpose of showing compliance with Track A.

7. *Checklist Item 2—Unbundled Network Elements.* Based on the record, the Commission finds that Qwest has provided ''nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)'' of the Act in compliance with checklist item 2.

8. The Commission concludes that Qwest meets it obligation to provide access to its OSS—the systems, databases, and personnel necessary to support the network elements or services. Nondiscriminatory access to OSS ensures that new entrants have the ability to order service for their customers and communicate effectively with Qwest regarding basic activities such as placing orders and providing maintenance and repair services for customers. The Commission finds that, for each of the primary OSS functions (pre-ordering, ordering, provisioning, maintenance and repair, and billing, as well as change management and technical assistance), Qwest provides access that enables competing carriers to perform the functions in substantially the same time and manner as Qwest or, if there is not an appropriate retail analogue in Qwest's systems, in a manner that permits an efficient competitor a meaningful opportunity to compete.

9. Pursuant to this checklist item, Qwest must also provide nondiscriminatory access to network elements in a manner that allows other carriers to combine such elements, and demonstrate that it does not separate already combined elements, except at the specific request of a competing carrier. Based on the evidence in the record, and upon Qwest's legal obligations under interconnection agreements, Qwest demonstrates that it provides to competitors combinations of already-combined network elements as well as nondiscriminatory access to unbundled network elements in a manner that allows competing carriers to combine those elements themselves.

10. The Commission finds that Qwest's UNE rates in New Mexico, Oregon and South Dakota are just, reasonable, and nondiscriminatory as required by section 252(d)(1). Thus, Qwest's UNE rates in New Mexico, Oregon and South Dakota satisfy checklist item 2. The State Commissions concluded that Qwest's UNE rates satisfy checklist item 2. The Commission has previously held that it will not conduct a *de novo* review of a state's pricing determinations and will reject an application only if either ''basic TELRIC principles are violated or the state commission makes clear errors in factual findings on matters so substantial that the end result falls outside the range that a reasonable application of TELRIC principles would produce.''

11. The Commission finds that rates in the three states satisfied a benchmark analysis with rates in Colorado, demonstrating that Qwest's New Mexico, Oregon and South Dakota UNE rates fall within a range of rates that a reasonable application of TELRIC would produce. The Commission also rejects arguments by a party that Qwest relied on rates in Oregon that (1) were based on old data, and (2) might be in effect only temporarily since they could be increased in a state commission proceeding that was pending. Thus, the Commission concludes that Qwest's UNE rates in New Mexico, Oregon and South Dakota satisfy the requirements of checklist item 2.

Other Checklist Items

12. *Checklist Item 1—Interconnection.* Based on the evidence in the record, the Commission finds that Qwest demonstrates that it provides interconnection in accordance with the requirements of section 251(c)(2), and as specified in section 271 and applied in the Commission's prior orders.

13. Qwest also demonstrates that its collocation offerings in New Mexico, Oregon and South Dakota satisfy the requirements of sections 251 and 271 of the Act. Qwest demonstrates that it offers interconnection in New Mexico, Oregon and South Dakota to other telecommunications carriers at just, reasonable, and nondiscriminatory rates, in compliance with checklist item 1.

14. *Checklist Item 4—Unbundled Local Loops.* The Commission concludes that Qwest provides unbundled local loops in accordance with the requirements of section 271 and our rules. Our conclusion is based on our review of Qwest's performance for all loop types, which include voice-grade loops, xDSL-capable loops, digital loops, high-capacity loops, as well as our review of Qwest's processes for hot cut provisioning, and line sharing and line splitting.

15. *Checklist Item 5—Unbundled Transport.* Section 271(c)(2)(B)(v) of the competitive checklist requires a BOC to provide ''local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.'' The Commission concludes, based upon the evidence in the record, that Qwest demonstrates that it provides unbundled local transport in compliance with the requirements of checklist item 5.

16. *Checklist Item 7—911/E911 Access & Directory Assistance/Operator Services.* Section 271(c)(2)(B)(vii)(I), (II),

and (III) require a BOC to provide nondiscriminatory access to ''911 and E911 services,'' ''directory assistance services to allow the other carrier's customers to obtain telephone numbers'' and ''operator call completion services,'' respectively. Additionally, section 251(b)(3) of the 1996 Act imposes on each LEC ''the duty to permit all [competing providers of telephone exchange service and telephone toll service] to have nondiscriminatory access to * * * operator services, directory assistance, and directory listing with no unreasonable dialing delays.'' Based on the evidence in the record, the Commission concludes that Qwest offers nondiscriminatory access to its 911–E911 databases, operator services (OS), and directory assistance (DA).

17. *Checklist Items 3, 6, 8, 9, 10, 11,12, 13 and 14.* An applicant under section 271 must demonstrate that it complies with item 3 (poles, ducts, and conduits), item 6 (unbundled local switching), item 8 (white pages), item 9 (numbering administration), item 10 (data bases and signaling), item 11 (number portability), item 12 (local dialing parity), item 13 (reciprocal compensation), and item 14 (resale). Based on the evidence in the record, and in accordance with Commission rules and orders concerning compliance with section 271 of the Act, the Commission concludes that Qwest demonstrates that it is in compliance with checklist items 3, 6, 8, 9, 10, 11, 12, 13 and 14 in New Mexico, Oregon and South Dakota. The State Commissions also concluded that Qwest complies with the requirements of each of these checklist items.

Other Statutory Requirements

18. *Section 272 Compliance.* Qwest provides evidence that it maintains the same structural separation and nondiscrimination safeguards in New Mexico, Oregon and South Dakota as it does in Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming where Qwest has already received section 271 authority. Based on the record before us, we conclude that Qwest has demonstrated that it will comply with the requirements of section 272.

19. *Public Interest Analysis.* The Commission concludes that approval of this application is consistent with the public interest. It views the public interest requirement as an opportunity to review the circumstances presented by the applications to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will therefore serve the public interest as Congress expected. While no one factor is dispositive in this analysis, the Commission's overriding goal is to ensure that nothing undermines its conclusion that markets are open to competition.

20. The Commission finds that, consistent with its extensive review of the competitive checklist, barriers to competitive entry in the local market have been removed and the local exchange market today is open to competition. The Commission concludes that Qwest's entry into the long distance market will benefit consumers and competition.

21. The Commission also finds that the performance monitoring and enforcement mechanisms developed in New Mexico, Oregon and South Dakota, in combination with other factors, provide meaningful assurance that Qwest continue to satisfy the requirements of section 271 after entering the long distance market.

22. Notwithstanding its concern about discrimination with respect to interconnection agreements and potential violations of the Act as a result, the Commission finds that Qwest's previous failure to file certain interconnection agreements with the application states does not warrant a denial of this application. The Commission concludes that concerns about any potential ongoing checklist violation (or discrimination) are met by Qwest's submission of agreements to the commissions of the application states pursuant to section 252 and by each state acting on Qwest's submission of those agreements. Based on the limited circumstances established in the record, the Commission does not find that the allegations concerning Qwest's compliance with section 271 relate to openness of the local telecommunications markets to competition. Instead, it defers any enforcement action pending the Enforcement Bureau's investigation of the matter.

23. The Commission concludes that approval of this application is consistent with the public interest. From our extensive review of the competitive checklist, which embodies the critical elements of market entry under the Act, we find that barriers to competitive entry in New Mexico, Oregon and South Dakota's local exchange market have been removed, and that the local exchange market is open to competition.

24. *Section 271(d)(6) Enforcement Authority.* The Commission concludes that, working with the State Commissions, we will closely monitor Qwest's post-approval compliance to ensure that Qwest does not ''cease[] to meet the conditions required for [section 271] approval.'' We stand ready to exercise our various statutory enforcement powers quickly and decisively if there is evidence that market opening conditions have not been sustained.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–10001 Filed 4–22–03; 8:45 am]

BILLING CODE 6712–01–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.: 011776–123.

Title: Asia North American Eastbound Rate Agreement.

Parties: American President Lines, Ltd., and APL Co. Pte Ltd. (as one party).

Hapag-Lloyd Container Linie GmbH.
Kawasaki Kisen Kaisha, Ltd.
AP Moller-Maersk Sea-Land.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha.
Orient Overseas Container Line Limited.
P&O Nedlloyd B.V.
P&O Nedlloyd Limited.

Synopsis: The modification extends the suspension of the agreement for an additional six months through November 1, 2003, and is effective upon filing.

Agreement No.: 011591–003.

Title: EUKOR/WWL Space Charter Agreement.

Parties: EUKOR Car Carriers, Inc., Wallenius Wilhelmsen Lines AS.

Synopsis: The modification adds the westbound trade from U.S. Atlantic, Gulf and Pacific Coast ports and inland and coastal points to all ports in Japan and Korea and inland and coastal points, and removes the annual limitation on tonnage to be chartered to either party.

By Order of the Federal Maritime Commission.

Dated: April 17, 2003.

Bryant L. VanBrakle.

[FR Doc. 03–9955 Filed 4–22–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 16, 2003.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 303–309–4470):

1. Triangle Financial Group, Inc., Loganville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Community Bank, Loganville, Georgia.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Peotone Bancorp, Inc., Peotone, Illinois; to acquire 24.99 percent of the voting shares of Bank of San Juans Bancorporation, Durango, Colorado, and thereby indirectly acquire Bank of the San Juans, Durango, Colorado.

C. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. One Rich Hill Mining LLC; and One Rich Hill Land Ltd., Partnership, both of Tulsa, Oklahoma; to become bank holding companies by acquiring 25.44 percent of the voting shares of F&M Bancorporation, and thereby indirectly acquire shares of F&M Bank & Trust Company, both in Tulsa, Oklahoma.

Board of Governors of the Federal Reserve System, April 17, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–9970 Filed 4–22–03; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

[File No. 021 0144]

Institute of Store Planners; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 15, 2003.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments filed in electronic form should be directed to: consentagreement@ftc.gov, as prescribed below.

FOR FURTHER INFORMATION CONTACT: L. Barry Costilo, FTC, Bureau of Competition, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–2024.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 17, 2003), on the World Wide Web, at ''http://www.ftc.gov/os/2003/04/index.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: consentagreement@ftc.gov. Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the Institute of Store Planners (''ISP''). ISP has its principal place of business in Tarrytown, New York.

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and decide whether it should withdraw from the agreement or make final the agreement's proposed order.

ISP's membership is composed of professional design practitioners who provide architectural, store design, store planning, merchandise planning, traffic flow planning fixture and lighting design, in-store graphics and visual presentation services to retail stores. Its

membership is also comprised of trade members such as suppliers and fabricators of products and materials used in store design, as well as general contractors who provide labor and project management services and build the projects.

The complaint alleges that ISP engages in substantial activities for the economic benefit of its members. The complaint alleges that ISP has approximately 800 members, many of whom provide store planning services for a fee or who are employed by store planning or design firms that provide store planning services for a fee. It alleges that ISP is and has been organized in substantial part for the profit of its members.

The complaint charges that ISP has violated Section 5 of the Federal Trade Commission Act by acting as a combination of its members and in agreement with some of its members to restrain price and non-price competition among its members and others. The complaint alleges that in furtherance of the combination and agreement, ISP has adopted and maintained provisions in its Code of Ethics that state, among other things, ''a member shall not render professional services without compensation'' (*ISP Code of Ethics*, Section 2) and ''a member shall not knowingly compete with another member on the basis of professional charges, or use donations as a device for obtaining professional advantage'' (*ISP Code of Ethics*, Section 3). The Code also provides that ''a member shall not offer his services in competition except as provided by such competition codes as the Institute may establish'' (*ISP Code of Ethics*, Section 4). Applicants for membership in ISP must agree in writing to follow ISP's By-laws, which contain its Code of Ethics.

The complaint alleges that the above acts and practices constitute unfair methods of competition which have restrained competition unreasonably and injured consumers by discouraging price competition among store planners and depriving consumers and users of store planners' services of the benefit of free and open competition among store planners.

ISP has signed a consent agreement containing the proposed consent order. The proposed consent order would prohibit ISP from restricting, impeding, declaring unethical or unprofessional or advising against price competition among its members. That is, ISP would no longer be able to restrict members from providing free or discounted services.

To ensure and monitor compliance, the consent order provides, among other things, that within 90 days after the order becomes final ISP shall remove from *ISP's Code of Ethics*, its constitution and bylaws and any existing ISP policy statement, commentary or guideline — including those appearing on ISP's website — any provision, policy statement, commentary or guideline which is inconsistent with the order. The order also requires that ISP publish in *ISP International News* and on its website, the revised versions of such documents. In addition, the order requires ISP to publish a copy of the order and complaint in the *ISP International News*. It further provides that the order and complaint shall be published on the ISP website for at least one year, with a link placed in a prominent position on the website's home page. The proposed consent order also contains other provisions to monitor compliance.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way its terms.

By direction of the Commission.

C. Landis Plummer

Acting Secretary

[FR Doc. 03–10033 Filed 4–22–03; 8:45 am]

BILLING CODE 6750–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03026]

Strengthening Epidemiologic Services and Surveillance in Central America, the Dominican Republic and Haiti; Notice of Availability of Funds

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301 and 307 of the Public Health Service Act, [42 U.S.C. sections 242l], as amended, and section 104 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b). The Catalog of Federal Domestic Assistance number is 93.283.

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 Strengthening Epidemiologic Services and Surveillance in Central America, the Dominican Republic, and Haiti.

The purpose of the program is to underpin the ability of the Ministries of Health (MOH) of the participating countries in the *Servicio de Investigacion Epidemiologica y Vigilancia de Centro America la Republica Dominicana y Haiti* (SIEVCADH) project to develop public health surveillance, investigate priority public health problems, and provide epidemiologic response to disease outbreaks and other public health emergencies. By doing so, applied public health programs in Central America, the Dominican Republic, and Haiti will be strengthened.

The objectives of this program are: (1) To produce high-quality public health surveillance, epidemiologic assessment and epidemiologic investigation in order to increase the effectiveness and efficiency of public health action, programs, and policy in SIEVCADH project countries; (2) to produce an enhanced and sustainable professional staff capacity to continue carrying out these activities in SIEVCADH project countries; and (3) to continue development of the Masters in Epidemiology with specialization in Field Epidemiology as an academic umbrella for the previous two objectives. The increased capacity in emergency response, epidemiologic investigation and surveillance will be essential to achieving the project's goal of developing sustainable capacity in field epidemiology in Central America, the Dominican Republic, and Haiti.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the Epidemiology Program Office (EPO): Maximize the distribution and use of scientific information and prevention messages through modern communication technology, efficiently respond to the needs of its public health partners through the provision of epidemiologic assistance, and implement accessible training programs to provide an effective work force for staffing state and local health departments, laboratories, and ministries of health in developing countries.

C. Eligible Applicants

Assistance will be limited to academic institutions in Central America.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

D. Funding

Availability of Funds

Approximately $220,000 is available in FY 2003 to fund one award. It is expected that the award will begin on or about June 2003 and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Direct Assistance

No direct assistance will be provided.

Use of Funds

1. All requests for funds contained in the budget, shall be stated in U.S. dollars. Once an award is made, CDC will not compensate foreign grantees for currency exchange fluctuations through issuance of supplemental awards.

By making this statement all requests, not only the initial budget, but any subsequent request such as re-directions, requests for supplemental funds, carry-overs, etc. are included. This is Health and Human Services (HHS) policy.

2. Funds may be spent for reasonable program purposes, including personnel, travel, supplies, and services. Equipment may be purchased if deemed necessary to accomplish program objectives, however, prior approval by CDC officials must be requested in writing.

3. The costs that are generally allowable in grants to domestic organizations are allowable to foreign institutions and international organizations, with the following exception: With the exception of the American University, Beirut, and the World Health Organization, Indirect Costs will not be paid (either directly or through sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

4. The applicant may contract with other organizations under this program; however, the applicant must perform a substantial portion of the activities including program management and operations, and delivery of prevention services for which funds are required.

5. Limitations and/or prohibitions on the use of funds are as follows:

a. Alterations and renovations are not allowable.

b. Customs and import duties, including consular fees, customs surtax, value-added taxes and other related charges are not allowable.

6. Awardee is required to obtain annual audit of these CDC funds (program-specific audit) by a U.S.-based audit firm with International branches and current licensure/authority in-country, and in accordance with International Accounting Standards or equivalent standard(s) approved in writing by CDC.

7. A fiscal Recipient Capability Assessment may be required, pre or post award, with the potential awardee in order to review their business management and fiscal capabilities regarding the handling of U.S. Federal funds.

Recipient Financial Participation

No matching funds are required for this program

Funding Preferences

Funding preferences will be given to academic institutions in Central America that have established relationships with other Central American academic institutions, governmental institutions such as MOH, national disease prevention and control programs, and international organizations.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities listed in 1. Recipient Activities, and CDC will be responsible for the activities listed in 2. CDC Activities.

1. Recipient Activities

The Recipient will be responsible for coordination of the SIEVCADH Field Epidemiology Training Program (FETP) and accomplishment of the following three objectives: (1) To strengthen public health surveillance, epidemiological assessments, and epidemiologic investigations; (2) to produce and enhance sustainable professional staff capacity to carry out these activities; and (3) to continue development of the Masters in Epidemiology with specialization in Field Epidemiology program.

Specific activities include:

a. Development and review of the curriculum of its Masters of Epidemiology with specialization in Field Epidemiology.

b. Development of agreements with other academic institutions in SIEVCADH countries to participate in the development and teaching of the Masters of Epidemiology with specialization in Field Epidemiology curriculum.

c. Development and coordination of a SIEVCADH faculty for the Masters of Epidemiology with specialization in Field Epidemiology.

d. Development and application of an Internet-based distance-learning program.

e. Logistical and administrative support of all students enrolled in the SIEVCADH FETP.

f. Development and implementation of a plan to establish field-training sites for the field component of the SIEVCADH FETP.

g. Development and establishment of a mentoring program for SIEVCADH faculty, supervisors, and students.

h. Provision of technical assistance to SIEVCADH FETP students' work and projects.

i. Review and oversight of SIEVCADH FETP students' work and projects.

j. Development and implementation of a plan for the ongoing assessment of the SIEVCADH FETP to determine if changes in strategies and/or activities are needed.

k. Development of an evaluation plan for all SIEVCADH FETP activities, which would also include a follow-up assessment of the students to determine the quality and success of the training programs and their continued occupation in related fields.

2. CDC activities

Provide technical consultation as needed on all aspects of program planning, implementation, and evaluation methods.

Specific activities to include:

a. Provision of assistance in the development and revision of the Masters of Epidemiology with a specialty in Field Epidemiology curriculum.

b. Provision of assistance in the development of SIEVCADH FETP workshops and seminars.

c. Provision of assistance in the development of a mentoring program for SIEVCADH faculty, supervisors, and students.

d. Provision of technical assistance as needed for management of program operations, including the application of continuous quality improvement.

e. Provision of assistance in ongoing assessment of program activities to ensure the use of effective and efficient implementation strategies.

f. Collaboration with recipient in the design of all phases of the evaluation.

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 20 pages, double-spaced, printed on one side, with one-inch margins, and unreduced 12-point font.

The narrative should consist of: Background and Need, Plan and Objectives, Plan of Operations, Evaluation, and Budget.

G. Submission and Deadline

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.

Submission Date, Time, and Address

The application must be received by 4 p.m. Eastern Time June 9, 2003. Submit the application to: Technical Information Management—PA 03026, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgment of Application Receipt

A postcard will be mailed by PGO-TIM, notifying you that CDC has received your application.

Deadline

Applications shall be considered as meeting the deadline if they are received before 4 p.m. Eastern Time on the deadline date. Any applicant who sends their application by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Any application that does not meet the above criteria will not be eligible for competition, and will be discarded. The applicant will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Application

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the purpose section of this announcement. Measures must be objective and quantitative and must measure the intended outcome. 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. Plan and Objectives (25 points)

a. The extent to which the goals relate to the overall vision of capacity building and are specific, time-phased, measurable and feasible.

b. The extent to which the applicant describes objectives that are specific, measurable, and feasible, including a schedule for implementation.

2. Plan of Operation (25 points)

The extent to which the applicant provides a detailed description of proposed activities which are likely to achieve each objective and overall program goals and which includes designation of responsibility for each action undertaken. The extent to which the applicant provides a reasonable and complete schedule for implementing all activities. The extent to which position descriptions, curriculum vitae's and lines of command are appropriate to accomplishment of program goals and objectives and to which concurrence with the applicant by all other parties involved is specific and documented. The extent to which the proposed activities are capable of achieving the stated program goals and intent of this program announcement.

3. Evaluation (25 points)

The Quality of the plan for evaluating the proposed program activities. Appropriateness of the methods to be used to monitor the implementation of proposed activities, to measure the achievement of project objectives, and to evaluate the impact of each project.

4. Experience (15 points)

The extent to which the applicant has experience in teaching a two-year masters program in epidemiology with specialization in field epidemiology with a large in-service or field component and that have the infrastructure of providing distance-based learning via the Internet.

5. Background and Need (10 points)

The extent to which the applicant presents data justifying the need for the program in terms of the magnitude of need for applied epidemiology training.

6. Budget (Reviewed, but not Scored)

The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

7. Performance goals (Reviewed, but not Scored)

The extent to which the measurable outcomes of the program will be in alignment with one or more of the performance goals for the EPO.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with an original plus two copies of—

1. Interim progress reports, no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current Budget Period Activities Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activity Objectives.

d. Detailed Line-Item Budget and Justification.

e. Additional Requested Information.

2. Financial status report (FSR) no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Additional Requirements

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the program announcement, as posted on the CDC web site.

AR–10 Smoke-Free Workplace Requirements
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements

AR–15 Proof of Non-Profit Status

Executive Order 12372 does not apply to this program.

J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found at the CDC web site, Internet address: *http://www.cdc.gov*.

Click on ''Funding'' then ''Grants and Cooperative Agreements''.

For general questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For business management and budget assistance, contact: Tracey Coleman, Contract Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2074, E-mail address: *TColeman3@cdc.gov*.

For program technical assistance, contact: Dr. Robert E. Fontaine, Epidemiologist, Epidemiology Program Office, Division of International Health, Centers for Disease Control and Prevention, 4770 Buford Highway, MS K–72, Atlanta, GA 30341, Telephone: 770–488–8329, E-mail address: *RFontaine@cdc.gov*. or Mr. Hoang Dang, Public Health Advisor, Epidemiology Program Office, Division of International Health, Centers for Disease Control and Prevention, 4770 Buford Highway, MS K–72, Atlanta, GA 30341, Telephone: 770–488–8466, E-mail address: *HDang@cdc.gov.*

Dated: April 17, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–9975 Filed 4–22–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03025]

Building Inter-Country Collaboration and Cooperation for Epidemiology and Surveillance Training in Central America, the Dominican Republic, and Haiti; Notice of Availability of Funds

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301 and 307 of the Public Health Service Act, (42 U.S.C. sections 242l), as amended, and section 104 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b). The Catalog of Federal Domestic Assistance number is 93.283.

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 Building Inter-Country Collaboration and Cooperation for Epidemiology and Surveillance Training in Central America, the Dominican Republic, and Haiti. This program addresses the ''Healthy People 2010'' focus area Public Health Infrastructure.

The purpose of this program is to strengthen inter-country activities and cooperation in the development of surveillance and field epidemiology in Central America, the Dominican Republic, and Haiti.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the Epidemiology Program Office (EPO): Maximize the distribution and use of scientific information and prevention messages through modern communication technology; efficiently respond to the needs of its public health partners through the provision of epidemiologic assistance; and implement accessible training programs to provide an effective work force for staffing state and local health departments, laboratories, and ministries of health in developing countries.

C. Eligible Applicants

Applications may be submitted by public nonprofit organizations and private nonprofit organizations.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

D. Funding

Availability of Funds

Approximately $130,000 is available in FY 2003 to fund one award. It is expected that the award 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 three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Direct Assistance

No direct assistance will be provided.

Use of Funds

1. All requests for funds contained in the budget, shall be stated in U.S. dollars. Once an award is made, CDC will not compensate foreign grantees for currency exchange fluctuations through issuance of supplemental awards.

By making this statement all requests, not only the initial budget, but any subsequent request such as re-directions, requests for supplemental funds, carry-overs, etc. are included. This is Health and Human Services (HHS) policy.

2. Funds may be spent for reasonable program purposes, including personnel, travel, supplies, and services. Equipment may be purchased if deemed necessary to accomplish program objectives, however, prior approval by CDC officials must be requested in writing.

3. The costs that are generally allowable in grants to domestic organizations are allowable to foreign institutions and international organizations, with the following exception: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

4. The applicant may contract with other organizations under this program; however, the applicant must perform a substantial portion of the activities (including program management and operations, and delivery of prevention services for which funds are required).

5. Limitations and/or prohibitions on the use of funds are as follows:

a. Alterations and renovations are not allowable.

b. Customs and import duties, including consular fees, customs surtax, value-added taxes and other related charges are not allowable.

6. Awardee is required to obtain annual audit of these CDC funds (program-specific audit) by a U.S. based audit firm with International branches and current licensure/authority in country, and in accordance with International Accounting Standards or equivalent standard(s) or equivalent standard(s) approved in writing by CDC.

7. A fiscal Recipient Capability Assessment may be required, pre or post award, with the potential awardee in order to review their business

management and fiscal capabilities regarding the handling of U.S. Federal funds.

Recipient Financial Participation

Matching funds are not required for this program.

Funding Priority

Public comments on the proposed Funding Priority are not being solicited due to insufficient time prior to the funding date.

Funding Preferences

Funding preferences will be given to organizations that can show established relationships with governmental institutions such as Ministries of Health, national disease prevention and control programs, academic institutions and international organizations.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities listed in 1. Recipient Activities, and CDC will be responsible for the activities listed in 2. CDC Activities.

1. Recipient Activities.

a. Coordination, facilitation, and logistic support of periodic meetings of the Regional Technical Committee (RTC) of the *Servicio de Investigion Epidemiologica y Vigilancia de Centro America la Republica Dominicana y Haiti* (SIEVCADH).

b. Implementation, facilitation, and logistic support of an annual regional scientific conference on public health surveillance and epidemiology as a forum for SIEVCADH trainees and graduates to conduct oral and poster presentations on their studies in epidemiology and public health surveillance. This conference should also include participation from other public health staff involved in epidemiology and surveillance including the public health laboratories, which were supported under the Hurricane Mitch and George Reconstruction Project.

c. Implementation of an external and independent evaluation of the training and service activities of SIEVCADH. This evaluation should be modeled after evaluations done for Field Epidemiology Training Programs and should address the special local circumstances in the SIEVCADH project countries.

d. Coordination and oversight of an emergency epidemiologic response fund for SIEVCADH project countries.

e. Coordination, facilitation, and logistic support of a program of periodic seminars for the presentation and scientific discussion of epidemiologic investigation and surveillance studies in SIEVCADH project countries.

f. Development and oversight of a system of grants to support research in the development and improvement of public health surveillance in SIEVCADH project countries.

2. CDC Activities.

a. Collaboration with the RTC participants in carrying out innovations and modifications of SIEVCADH activities in accordance with agreements reached at the periodic meetings of the RTC.

b. Provision of assistance in the development of criteria for the review and selection of abstracts for the annual regional scientific conference on public health surveillance and epidemiology.

Guidance for potential conference participants in the development of projects in public health surveillance and epidemiologic investigation and in the preparation of abstracts and presentations.

c. Provision of example evaluations and assistance in developing the evaluation framework for training and service activities of SIEVCADH.

d. Technical assistance for investigations funded by the emergency epidemiologic response fund.

e. Assistance in the identification and selection of speakers and appropriate topics for the periodic seminars. Guidance and training of SIEVCADH participants in the preparation of seminars.

f. Provision of assistance in the development of criteria and selection of grants to support research in the development and improvement of public health surveillance in SIEVCADH project countries.

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 25 pages, double-spaced, printed on one side, with one-inch margins, and unreduced 12-point font.

The narrative should consist of: Background and Need, Plan and Objectives, Plan of Operations, Evaluation, and Budget. The program Plan should briefly address activities to be conducted over the entire three-year project period.

G. Submission and Deadline

Submit the signed original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available at the following Internet address: *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.

Submission Date, Time, and Address

The application must be received by 4 p.m. eastern time on June 9, 2003. Submit the application to: Technical Information Management—PA 03025, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146.

Application may not be submitted electronically.

CDC Acknowledgment of Application Receipt

A postcard will be mailed by PGO-TIM, notifying you that CDC has received your application.

Deadline

Applications shall be considered as meeting the deadline if they are received before 4 p.m. eastern time on the deadline date. Any applicant who sends their application by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Any application that does not meet the above criteria will not be eligible for competition, and will be discarded. The applicant will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Application

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the purpose section of this announcement. Measures must be objective and quantitative and

must measure the intended outcome. 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. Plan and Objectives (25 Points).

a. The extent to which the goals relate to the overall vision of capacity building and are specific, time-phased, measurable and feasible.

b. The extent to which the applicant describes objectives that are specific, measurable, and feasible, including a schedule for implementation.

2. Plan of Operation (25 Points).

The extent to which the applicant provides a detailed description of proposed activities which are likely to achieve each objective and overall program goals and which includes designation of responsibility for each action undertaken. The extent to which the applicant provides a reasonable and complete schedule for implementing all activities. The extent to which position descriptions, curriculum vitae's and lines of command are appropriate to accomplishment of program goals and objectives and to which concurrence with the applicant by all other parties involved is specific and documented. The extent to which the proposed activities are capable of achieving the stated program goals and intent of this program announcement.

3. Evaluation (25 Points).

The Quality of the plan for evaluating the proposed program activities. Appropriateness of the methods to be used to monitor the implementation of proposed activities, measure the achievement of project objectives, and evaluate the impact of each project.

4. Experience (15 Points).

The extent to which the applicant has the proven scientific and technical experience to carry out international programs in public health, especially epidemiology and surveillance.

5. Background and Need (10 points).

The extent to which the applicant presents data justifying the need for the program in terms of the magnitude of need for developing inter-country collaboration and cooperation in the development of field epidemiology and surveillance.

6. Budget (reviewed, but not scored).

The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

7. Performance Goals (reviewed, but not scored).

The extent to which the measurable outcomes of the program will be in alignment with one or more of the performance goals for the EPO.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with an original plus two copies of

1. Interim progress report, no less than 90 days before the end of the budget period.

2. Financial status report (FSR) no later than 90 days after the end of the budget period.

3. Final FSR and performance reports, no later than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Additional Requirements

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the program announcement, as posted on the CDC Web site.

AR–10 Smoke-Free Workplace Requirements
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status

Executive Order 12372 does not apply to this program.

J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC Web site, Internet address: *http://www.cdc.gov. Click on ''Funding'' then ''Grants and Cooperative Agreements''.*

For general questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146. Telephone: 770–488–2700.

For business management and budget assistance, contact: Tracey Coleman, Contract Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Atlanta, GA 30341–4146. Telephone: 770–488–2074. E-mail address: *TColeman3@cdc.gov.*

For program technical assistance, contact:

Dr. Robert E. Fontaine, Epidemiologist, Epidemiology Program Office, Division of International Health, Centers for Disease Control and Prevention, 4770 Buford Highway, MS K–72, Atlanta, GA 30341. Telephone: 770–488–8329. E-mail address: *RFontaine@cdc.gov;*

or

Mr. Hoang Dang, Public Health Advisor, Epidemiology Program Office, Division of International Health, Centers for Disease Control and Prevention, 4770 Buford Highway, MS K–72, Atlanta, GA 30341. Telephone: 770–488–8466. E-mail address: *HDang@cdc.gov.*

Dated: April 17, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–9976 Filed 4–22–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03055]

Cooperative Agreement for Early Hearing Detection and Intervention (EHDI) Tracking, Surveillance, and Integration; Notice of Availability of Funds

Application Deadline: June 9, 2003.

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317(C) of the Public Health Service Act, (42 U.S.C. sections 241(a) and 247b–4), as amended. The Catalog of Federal Domestic Assistance number is 93.283.

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 Early Hearing Detection and Intervention (EHDI). This program addresses the ''Healthy People 2010'' focus area of Vision and Hearing.

The purpose of the program is to (1) develop or enhance a sustainable, centralized EHDI tracking and surveillance system, and (2) integrate the EHDI system with other newborn screening programs. EHDI is a national initiative to improve the communicative, cognitive, and social outcomes of children with hearing loss through a program of services and research.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the National Center on Birth Defects and Disabilities: Prevent birth defects and developmental disabilities and improve the health and quality of life of Americans with disabilities.

C. Eligible Applicants

Applications may be submitted by State and local governments or their *bona fide* agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Marianna 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. Only one application from each State or Territory may be submitted.

To be eligible, applicants must document that they:

1. Do not have an established State centralized EHDI surveillance and tracking program;
2. Are in the beginning stages of establishing a centralized EHDI surveillance and tracking program; or
3. Already have a program but would like to refine their existing surveillance and tracking program to integrate it with other newborn screening and tracking programs.

The applicant must include this documentation in the cover letter of the application. If it is not included, then the application will be determined as ''non-responsive'' and returned without review.

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 $300,000 is available in FY 2003, to fund two awards. It is expected that the average award will be $150,000, ranging from $110,000 to $150,000. It is expected that the awards will begin on or about September 1, 2003, and will be made for a 12-month budget period within a project period of up to two years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Project funds may not be used to supplant other available applicant or collaborating agency funds or to supplant State funds available for screening, diagnosis, intervention or tracking for hearing loss or other disorders detected by newborn screening. Project funds may not be used for construction, for lease or purchase of facilities or space, or for patient care.

Recipient Financial Participation

Matching funds are not required for this program.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities listed in 1. Recipient Activities, and CDC will be responsible for the activities listed in 2. CDC Activities.

1. Recipient Activities

a. Establish and implement a State surveillance and data tracking system to assure minimal loss to follow-up by monitoring the status and progress of infants through the three components of the EHDI program (screening, detection, and intervention).

b. Establish methods for populating the EHDI data base (*e.g.*, linking with the electronic birth certificate) to develop strategies for collecting standardized EHDI data (including the type of hearing loss and type of intervention services) from multiple sources, (*e.g.* birthing hospitals, diagnostic centers, audiologists, physicians, intervention programs.) Develop and enumerate reporting systems that will ensure that tracking and surveillance data collected from multiple sources will be used so that there is minimal loss to follow-up.

c. Develop mechanisms to identify and collect standardized data on infants/children with late onset or progressive hearing loss.

d. Outline an analytic plan to use EHDI data in order to obtain outcome data such as: Number/percent of infants screened, referred, evaluated, and enrolled in intervention programs; unexpected clusters of infants with hearing loss in particular regions at particular times; unexpected differences in EHDI screening performance between participating birthing hospitals; false positive rates; loss to follow-up rates.

e. Document concerns from parents and professionals about the EHDI process.

f. Establish or use existing EHDI advisory committee with appropriate representation of parents and professionals to provide guidance and assistance in the development of the EHDI program.

g. Design the program so that it can be integrated with other screening and tracking programs that identify children with special health care needs such as newborn blood spot screening, birth defects registries, fetal alcohol syndrome surveillance, and Part C of the Individuals with Disabilities Education Act (IDEA) (*http://www.nectac.org*).

h. Collaborate with State programs such as Maternal and Child Health (MCH) (*http://www.mchb.hrsa.gov*), part C of IDEA, private service programs, and advocacy groups to build a coordinated EHDI infrastructure.

i. Develop an evaluation plan to monitor progress on activities and to assess the timeliness, completeness, and success of the project.

j. Prepare and publish manuscript(s) that describe(s) the tracking system, definitions, methodology, collaborative relationships, data collection, findings, and recommendations across sites. Collaboration with other participating sites is encouraged.

k. Share information and collaborate with other recipients, and with CDC and other Federal and national agencies.

2. CDC Activities

a. Provide technical assistance such as presenting the need, benefits, and description of a comprehensive, state-based EHDI tracking and surveillance program, reviewing draft legislation, etc. to state agencies and interested parties.

b. Assist in designing, developing, and evaluating methodologies and approaches used in state-based data collection and analysis of data across sites.

c. Facilitate collaborative efforts to compile and disseminate program results through presentations and publications.

d. Assist in analyzing surveillance data related to EHDI.

e. Assist in designing, developing, and evaluating plans to improve the access of children with hearing loss to health services and intervention programs.

f. Provide a reference point for sharing state-based data and information pertinent to the surveillance and tracking of hearing loss.

F. Content

Letter of Intent (LOI)

A LOI is requested for this program. The LOI should identify the program announcement number, program title and the proposed project director. The LOI should be no more than 2 pages, single-spaced, printed on one side, with one-inch margins, and unreduced 12-point font. The LOI will be used to determine the level of interest in the announcement, and assist CDC in planning for the application review process.

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. Applications should include the following items, in the following order:

Cover Letter: A one-page cover letter stating that the applicant is applying and how the applicant fulfills eligibility requirements.

Table of Contents: A table of contents that provides page numbers for each of the following sections (all pages must be numbered).

Abstract: A one-page, single-spaced, typed abstract must be submitted with the application. The heading should include the title of the grant program, project title, organization name and address, project director and telephone number. The abstract should briefly summarize the project for which funds are requested, the activities to be undertaken, and the applicant's organization structure. The abstract should precede the program narrative.

Budget and Budget Justification: The budget should be reasonable, clearly justified, and consistent with the intended use of the agreement funds. The applicant must include a detailed first-year budget justification with future annual projections. Budgets should include costs for travel for two project staff to attend annual meetings. The applicant should provide a budget justification for each budget item. 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.

Narrative: The narrative should be no more than 30, double-spaced pages. The narrative is to be printed on one side, with one-inch margins, and unreduced 12-point font. The narrative must contain the following sections:

a. Understanding the Problem and Current Status

b. Goals and Objectives

c. Description of Program and Methodology (Include a timeline for the entire two-year project period.)

d. Collaborative Efforts

e. Evaluation Plan

f. Staffing and Management System (A one-page CV or resume for each key personnel must be included in an attachment). Plan must also provide details of the role of each key personnel.

g. Organizational Structure and Facilities (Must include an organizational chart)

h. Human Subjects Review

G. Submission and Deadline

Letter of Intent (LOI) Submission

On or before May 13, 2003, submit the LOI to the Public Health Analyst identified in the ''Where to Obtain Additional Information'' section of this announcement.

Application Forms

Submit the signed original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms can be found at the following Internet address: *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.

Submission Date, Time, and Address

The application must be received by 4 p.m. eastern time June 9, 2003. Submit the application to: Technical Information Management—PA#03055, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgement of Application Receipt

A postcard will be mailed by PGO–TIM, notifying you that CDC has received your application.

Deadline

Letters of intent and applications shall be considered as meeting the deadline if they are received before 4 p.m. eastern time on the deadline date. Any applicant who sends their application by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Any application that does not meet the above criteria will not be eligible for competition, and will be discarded. The applicant will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Application

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in section ''B. Purpose'' 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. Description of Program and Methodology (35 percent).

a. Extent to which applicant describes the methods they will use to address all recipient activities, such as: (1) Establishing and implementing an EHDI tracking and surveillance system; (2) describing methods of populating the data base; (3) standardizing data from multiple sources; (4) developing strategies for reporting system; (5) documenting methods for collecting data on infants/children with late onset or progressive hearing loss; (6) designing analytic plan; (7) documenting concerns; (8) describing advisory committee; (9) describing plans for integrating data sets; (10) collaborating with other state programs; (11) developing an evaluation plan; (12) preparing manuscripts; and (13) collaborating and sharing information.

b. Extent to which applicant provides a time line which includes activities to be accomplished, and personnel responsible to complete the project. The timeline should address activities to be conducted over the entire two-year project period.

2. Understanding the Problem and Current Status (20 percent).

a. Extent to which the applicant has a clear, concise understanding of the requirements and purpose of the cooperative agreement.

b. Extent to which the applicant understands the challenges, barriers, and problems associated with developing and implementing an EHDI tracking and surveillance program.

c. Extent to which the applicant describes the need for funds to develop/enhance an EHDI tracking and surveillance program in their State.

d. Extent to which the applicant describes the target population and the current status of their existing EHDI program, *e.g.*, number of birthing hospitals with and without universal hearing screening program; number of infants born, number of infants screened, identified and referred to intervention; protocol for screening and referral, including informed consent information.

e. Extent to which applicant describes (1) their current EHDI tracking and surveillance system (if any exists); (2) other relevant tracking, surveillance systems, or registries in the State; and (3) linkages with other relevant systems.

f. Extent to which applicant describes diagnostic facilities and intervention services available in the State for infants/children with hearing loss.

g. Extent to which applicant shows willingness and interest to integrate EHDI surveillance and tracking system with other newborn screening program activities.

3. Goals and Objectives (10 percent).

a. Extent to which applicant clearly describes the short-term and long-term goals, and measurable objectives of the project.

b. Extent to which applicant's goals and objectives are realistic and are consistent with the stated goals and purpose of this announcement.

c. The degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic and racial groups in the proposed research. This includes the proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation and justification when representation is limited or absent.

4. Collaborative Efforts (10 percent).

a. Extent to which applicant describes their methods for collaboration with multiple data sources (include written assurances) such as hospitals, diagnostic centers, and intervention service providers.

b. Extent to which collaborative relationships are documented which will facilitate linkage with other screening programs. (Letters of agreement and cooperation from collaborating programs should be included.)

c. Extent to which collaborative efforts with other relevant programs are documented (such as MCH, IDEA part C, etc.)

d. Extent to which applicant states their willingness to work collaboratively with other funded States and to modify their projects if necessary in order to allow anonymized pooled data sets of standardized data.

5. Evaluation Plan (10 percent).

Extent to which applicant describes an evaluation plan that will monitor progress toward their goals, and assess timeliness, completeness, and success of the objectives and activities of the project.

6. Staffing and Management System (10 percent).

a. Extent to which key personnel have skills and experience to develop and implement an EHDI tracking and surveillance system.

b. Extent of the managerial ability to coordinate the tracking, surveillance, and research, and integration components of the project.

c. Extent to which expertise in abstracting screening, identification, and intervention records are demonstrated.

d. Extent to which expertise in epidemiologic methods, public health surveillance, data management and computer programming is demonstrated.

e. Extent to which there is sufficient dedicated staff time to develop and implement an EHDI tracking and surveillance system and to integrate the EHDI system with other newborn screening systems (include percentage of time each staff member will contribute to the project).

7. Organizational Structure and Facilities (5 percent).

Extent to which the organization structure and facilities/space/equipment are adequate to carry out the activities of the program.

8. Human Subjects Review (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.

9. Budget (not scored).

The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of the cooperative agreement funds.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

Interim progress report, no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current Budget Period Activities Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activity Objectives.

d. Detailed Line-Item Budget and Justification.

e. Additional Requested Information.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Additional Requirements

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the program announcement, as posted on the CDC Web site.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions

J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC Web site, Internet address: *http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements''.

For general questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146. Telephone: 770–488–2700.

For business management and budget assistance, contact: Sheryl Heard, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Atlanta, GA 30341–4146. Telephone: 770–488–2723. E-mail address: *SHeard@cdc.gov.*

For program technical assistance, contact: Lee Ann B. Ramsey, BBA, GCPH, Public Health Analyst, Centers for Disease Control and Prevention, National Center on Birth Defects and Developmental Disabilities, 1600 Clifton Road, NE, Mailstop F–35, Atlanta, GA 30333. Telephone: 404–498–3034. E-mail Address: *LRamsey@cdc.gov.*

Dated: April 17, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–9977 Filed 4–22–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03002]

Public Health Conference Support Cooperative Agreement Program for Human Immunodeficiency Virus Prevention; Notice of Availability of Funds

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the Public Health Service Act, section 301(a), 42 U.S.C. 241(a), as amended and section 317(a), 42 U.S.C. 247b(a), as amended. The Catalog of Federal Domestic Assistance number is 93.941.

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 Public Health Conference Support for Human Immunodeficiency Virus (HIV) Prevention. This program addresses the Healthy People 2010 focus area of HIV.

The purpose of this program is to provide partial support for specific non-Federal conferences in the areas of health promotion and disease prevention information/education programs. Because conference support by CDC creates the appearance of CDC co-sponsorship, there will be active participation by CDC in the development and approval of those portions of the agenda supported by CDC funds. In addition, CDC reserves the right to approve or reject the content of the full agenda, press events, promotional materials (including press releases), speaker selection, and site selection. CDC funds will not be used for portions of meetings that are not approved.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the National Center for HIV, Sexually Transmitted Diseases (STD) and Tuberculosis (TB) Prevention: Strengthen the capacity nationwide to monitor the epidemic, develop and implement effective HIV prevention interventions and evaluate prevention programs.

C. Eligible Applicants

Letters of Intent and applications may be submitted by:

- Public nonprofit organizations.
- Private nonprofit organizations.
- Universities.
- Colleges.
- Technical schools.
- Research institutions.
- Hospitals.
- Community-based organizations.
- Faith-based organizations.
- Federally recognized Indian tribal governments.
- Indian tribes.
- Indian tribal organizations.
- State and local governments or their *bona fide* agents (this includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Marianna Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau).

Foreign organizations are not eligible to apply.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

D. Funding

Availability of Funds

Approximately $112,000 is available in FY 2003 to fund approximately 5 awards. It is expected that the average award will be $20,000, ranging from $15,000 to $25,000. It is expected that the awards will begin on or about September 1, 2003, and will be made for a 12-month budget and project period. Funding estimates may change.

Applicants may not request more than $25,000 including indirect cost.

Contingency awards will be made allowing usage of only 10 percent of the total amount to be awarded until a final full agenda is approved by CDC. Funding will be provided to support costs associated with preparation of the agenda. The remainder of funds will be released only upon CDC approval of the final full agenda. CDC reserves the right to terminate co-sponsorship at any time.

Please note that conferences planned for October 1, 2003, through March 31, 2004, will be considered for funding.

Use of Funds

1. CDC funds will not be used for nonapproved portions of meetings. CDC funds may be used for only those parts of the conference specifically supported by CDC as listed on the Notice of Cooperative Agreement Award. CDC funds may be used for direct costs, such as

a. Salaries.
b. Speaker fees.
c. Rental of conference-related equipment.
d. Registration fees.
e. Scholarships.
f. Transportation costs (not to exceed economy class fares) for non-Federal employees.
g. Mileage for local participants.

2. CDC funds may not be used

a. To purchase equipment.
b. To pay honoraria.
c. For organizational dues.
d. To support entertainment.
e. For personal expenses not related to the conference.
f. For travel costs or payment to a Federal employee.
g. For *per diem* and expenses for local participants.
h. To reimburse indirect costs.
i. To purchase novelty items (*e.g.*, bags, T-shirts, hats, pens) distributed at meetings.
j. To purchase food or drinks.

3. CDC will not fund a conference after it has taken place.

Recipient Financial Participation

Recipient financial participation is required for this program in accordance with this Program Announcement. CDC will not fund more than 75 percent of the total cost of the conference. At least 25 percent of the cost for the conference must be supported with non-federal funds.

Funding Preferences

Preferences for funding may be given for:

1. Ensuring a balance of funded agencies that serve populations in special settings (*e.g.*, correctional institutions, shelters for runaway youth).
2. Ensuring a balance of funded agencies that target under served geographic areas, especially rural populations.
3. Ensuring a balance of funded agencies that target people of color (especially African Americans and Hispanic women of color).
4. Ensuring a balance of funded agencies that provide support of comprehensive primary and secondary prevention programs for persons living with HIV.

No preference will be given to organizations that have received CDC funding in past years.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. Recipient Activities, and CDC will be responsible for the activities listed under 2. CDC Activities.

1. Recipient Activities

a. Manage all activities related to conference content (*e.g.*, objectives, topics, session design, workshops, special exhibits, speakers, fees, agenda composition, printing). Many of these items may be developed in concert with CDC personnel assigned to support the conference.

b. Provide draft copies of the agenda, objectives, and proposed related activities to the CDC Project Official for review and comment. Submit a copy of the final agenda, objectives, and proposed related activities to the CDC Grants Management Office for approval.

c. Determine and manage all promotional activities (*e.g.*, title, logo, announcements, mailers, press). CDC must review and approve the use of any materials with reference to CDC involvement or support.

d. Manage all registration processes with participants and registrants (*e.g.*, travel, reservations, correspondence, conference materials and hand-outs, badges, registration procedures).

e. Plan, negotiate, and manage conference site arrangements, including all audiovisual needs.

f. Develop the content and manage the activities of the conference.

g. If the proposed conference is or includes a satellite broadcast, recipient will

(1) Provide individual, on-camera rehearsals for all presenters.

(2) Provide at least one full dress rehearsal involving the moderator, all presenters, equipment, visuals, and practice telephone calls at least one day before the actual broadcast and as close to the actual broadcast time as possible.

(3) Provide full scripting and Teleprompter use for the moderator and all presenters.

h. Collaborate with CDC staff in reporting and disseminating conference results, recommendations, and relevant HIV prevention information. This information should be made available to appropriate Federal, State, and local agencies, healthcare providers, HIV/AIDS prevention and service organizations, and the general public.

2. CDC Activities

a. Provide technical assistance through telephone calls, correspondence, and site visits in the areas of program agenda development, implementation, and priority setting related to the cooperative agreement.

b. Provide scientific collaboration for appropriate aspects of the program, including selection of speakers, pertinent scientific information on HIV, preventive measures, and program strategies for the prevention of HIV infection.

c. Review draft agendas. The Grants Management Officer will approve or disapprove the final agenda and proposed related activities prior to release of restricted funds.

d. Assist applicant in reporting and disseminating results, recommendations, and relevant HIV prevention information.

F. Content

Letter of Intent (LOI)

A LOI is required for this program. The Program Announcement title and number must appear in the LOI. The narrative should be no longer than two pages, including the letterhead and signatures, single-spaced, and with one-inch margins. The page limitation must be observed or the LOI will be returned without review.

CDC will review each LOI and determine who can submit a full application. CDC will invite applicants to submit their full applications within 30 days after the LOI due date.

Availability of funds may limit the number of applicants, regardless of merit, who receive an invitation to submit an application.

Applicants must submit an original and two copies of a two-page typewritten LOI that briefly provides the following information:

a. Name of organization.

b. Mailing address.

c. Telephone and fax numbers.

d. Email address.

e. Title of the proposed conference.

f. Location of the proposed conference. (city and State.)

g. Conference dates.

h. Document need for the conference.

i. Purpose of the conference.

j. Potential contribution to HIV/AIDS Prevention.

k. Intended audience (number and description of conference attendees.)

l. Population(s) who will ultimately benefit from the information shared with conference attendees (population consists of persons at risk, *i.e.*, women, men who have sex with men, injecting drug users and persons living with HIV.)

m. The estimated total cost of the conference.

n. The percentage of the total cost (which must be 75 percent or less) being requested from CDC.

o. The relationship of the conference to CDC's Funding Preferences, which are listed in section E.

p. Potential contribution toward the National HIV prevention goals based on the CDC HIV Prevention Strategic Plan:

1. Decrease new infections.

2. Increase knowledge of Serostatus.

3. Increase linkage to prevention, care and treatment.

4. Strengthen monitoring, capacity and evaluation.

Information on HIV prevention methods (or strategies) can include abstinence; monogamy, *i.e.*, being faithful to a single sexual partner; or using condoms consistently and correctly. These approaches can avoid risk (abstinence) or effectively reduce risk for HIV (monogamy, consistent and correct condom use).

q. If applicable, current recipients of CDC HIV funding must provide the award number and title of the funded programs.

Note: No attachments, booklets, or other documents accompanying the LOI will be considered.

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 12 pages, double-spaced pages (excluding attachments, *i.e.*, assurances), printed on one side, with one-inch margins, and 12-point font. Write your narrative in English only and do not use jargon or abbreviations. Clearly number the pages, and include a complete index to the application and its appendices. The original and two required copies of the application must be submitted unstapled and unbound. Materials that are part of the basic plan should not be in the appendices.

Narrative Content

If your LOI is selected, your application must include the following information:

a. A project summary cover sheet that includes

(1) Name of organization.

(2) Name of conference.

(3) Location of conference.

(4) Date(s) of conference.

(5) Target population(s) who will benefit from the information shared with conference attendees (*e.g.*, youth,

women, men who have sex with men, injecting drug users and persons living with HIV.)

(6) Intended audience (number and description of conference attendees.)

(7) Conference objectives.

(8) Dollar amount requested.

(9) Total conference budget.

b. Biographical sketches and job descriptions of the individuals responsible for planning and coordinating the conference.

c. A budget narrative separately identifying and justifying line items to which the requested federal funds would be applied.

d. A draft agenda for the proposed conference.

e. Award number and title of funded programs for current recipients of CDC HIV funding. Applicants must have not submitted the same proposal for review for funding to other parts of CDC.

G. Submission and Deadline

Letter of Intent (LOI) Submission

Cycle I: For conferences during the dates of October 1, 2003, to March 31, 2004, submit LOI on or before May 19, 2003.

Cycle II: Applications requesting support for conferences held during the dates of April 1, 2004, to September 30, 2004, will be solicited in a separate FY 2004 program announcement.

Submit LOIs to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement. If your LOI does not arrive on or before the due date, it will not be considered.

Application Forms

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428.) Forms are available at the following Internet address: *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.

Applicants should adhere to the instructions in this program announcement regarding the due date.

Submission Date, Time, and Address

Applications must be received by 4 p.m. eastern standard time, July 28, 2003.

Submit the application to:

Technical Information Management—PA03002, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Rd, Room 3000, Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgment of Application Receipt

A postcard will be mailed by PGO–TIM, notifying you that CDC has received your application.

Deadline

Letters of intent and applications will be considered as meeting the deadline if they are received before 4 p.m. eastern time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications which do not meet the above criteria will not be eligible for competition and will be discarded. Applicants will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Letter of Intent

The Letter of Intent will be evaluated against the following criteria:

1. The extent to which the applicant demonstrates the need for the conference. (20 points.)

2. The extent to which the applicant discuss the potential contribution to HIV/AIDS prevention. (20 points.)

3. The extent to which high risk populations will ultimately benefit from the conference. (20 points.)

4. The extent to which the conference will have potential contribution toward the National HIV Prevention Goals based on the CDC HIV Prevention Strategic Plan. (15 points.)

5. The extent to which the conference overall objectives are reliable, reasonable, measurable and specific. (15 points.)

6. The extent to which the estimate of the conference cost is reasonable. (10 points.)

7. In addition, the applicant is expected to complete the LOI requirements listed in section F. Content. LOI must also address one or more of the elements listed in section D under Funding Preferences.

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 section A. Purpose 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:

Note: Use the following headings on your application.

a. Proposed Program and Technical Approach (30 points):

1. The extent to which the proposed conference description fits one of the Funding Preferences listed in section E.

2. The degree to which the conference objectives are specific, measurable, realistic, and time-phased. The extent to which evaluation of the conference assesses increased knowledge and attitudes of the conference participants.

3. The relevance and effectiveness of the proposed agenda in addressing the conference topic(s).

4. The degree to which conference activities relate to the prevention of HIV.

b. Applicant Capability and Experience (25 points):

1. The adequacy of existing resources to administer the program for the proposed conference.

2. The adequacy of existing and proposed facilities for conducting conference activities.

3. The degree to which the applicant has established relationships with related government agencies, community planning groups, and related community groups. Include letters of support (five only) from such agencies, addressing related applicant's capability and experience. Letters of support must explain how the agency will work with the applicant to plan the proposed conference. Letters that do not pertain directly to the proposed conference will not be considered.

4. The extent to which the applicant shows the need for the conference. c. Qualifications of Program Personnel (25 points):

1. The qualifications and experience of the principal staff person, and his or her ability to devote adequate time to provide effective leadership.

2. Program personnel's ability to accomplish conference objectives.

3. Key personnel's (including associate staff persons, discussion leaders, and speakers) education and expertise relative to the conference objectives.

d. Purpose of the conference (20 points):

1. Extent to which the applicant shows that participants and presenters will have the opportunity to interact during the conference, share information on successful and unsuccessful program experiences, and develop collaborative working relationships.

2. The extent to which the applicant shows the need for the conference.

e. Budget Justification and Adequacy of the Facility (this session will be reviewed, but not scored):

The proposed budget will be evaluated on the basis of its reasonableness, concise and clear justification, consistency with the intended use of cooperative agreement funds, and the extent to which the applicant documents financial support from other sources.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of the final financial (reporting actual expenses) and performance reports, no more than 90 days after the end of the project period. The performance report should include:

1. The cooperative agreement number.
2. Title of the conference.
3. Name of the principal investigator, program director or coordinator.
4. Name of the organization that conducted the conference.
5. A copy of the agenda.
6. A list of individuals who participated in the formally planned sessions of the meeting.
7. A summary of the meeting results, including a discussion of how the meeting reached the stated conference objectives.
8. The Program Review Panel's report that all written materials have been reviewed as required.

With the prior approval of CDC, copies of proceedings or publications resulting from the conference may be substituted for the final performance report, provided they contain the information requested in items 1 through 8 above.

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 page.

AR–5 HIV Program Review Panel Requirements
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–15 Proof of Non-Profit Status
AR–20 Conference Support

Executive Order 12372 does not apply to this program.

J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC Web site, Internet address: *http://www.cdc.gov.*

Click on ''Funding'' then ''Grants and Cooperative Agreements.''

For general questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Rd, Room 3000, Atlanta, GA 30341–4146. Telephone: 770–488–2700.

For business management and budget assistance, contact: Diane Childs, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146. Telephone: (770) 488–2876. E-mail address: *dec6@cdc.gov.*

For business management and budget assistance in the territories contact: Charlotte L. Flitcraft, Contract Specialist, CDC Procurement and Grants Office, 2920 Brandywine Rd., Atlanta, GA 30341–4146. Telephone: 770–488–2632. E-mail address: *caf5@cdc.gov.*

For program technical assistance, contact: Victoria E. Saho, Project Officer, Technical Information and Communications Branch, Division of HIV/AIDS Prevention—Intervention Research and Support, National Center for HIV, STD and TB Prevention, 1600 Clifton Road, NE., M/S E49, Atlanta, GA 30333. Telephone: (404) 639–5211. E-mail address: *vsaho@cdc.gov.*

Dated: April 17, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 03–9978 Filed 4–22–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Voting and Nonvoting Consumer Representative Members on Public Advisory Committees and Panels

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting and nonvoting consumer representatives to serve on its advisory committees and panels in the Center for Biologics Evaluation and Research (CBER), Center for Drug Evaluation and Research (CDER), Center for Devices and Radiological Health (CDRH), and the Center for Veterinary Medicine (CVM). Nominations will be accepted for current vacancies and for those that will or may occur through December 31, 2003.

FDA has a special interest in ensuring that women, minority groups, and individuals with disabilities are adequately represented on advisory committees and, therefore, encourages nominations of qualified candidates from these groups.

DATES: Scheduled vacancies occur on various dates throughout the year. As a result, no cutoff date is established for the receipt of nominations.

ADDRESSES: All nominations should be sent to the contact person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

FOR FURTHER INFORMATION CONTACT: Michael Ortwerth, Advisory Committee Oversight and Management Staff (HF–4), FDA Office of the Commissioner, 5600 Fishers Lane, Rockville, MD 20857, e-mail: Michael.Ortwerth@fda.gov.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for voting and nonvoting consumer representatives of the following advisory committees and panels for vacancies listed below.

CBER

1. *Allergenic Products Advisory Committee*
2. *Blood Products Advisory Committee*

CDRH

1. *Device Good Manufacturing Practice Advisory Committee*
2. *Circulatory System Devices Panel*
3. *Ear, Nose, and Throat Devices Panel*
4. *General Hospital and Personal Use Devices Panel*

5. *Immunology Devices Panel*
6. *Medical Devices Dispute Resolution Panel*
7. *Microbiology Devices Panel*
8. *Molecular and Clinical Genetics Panel*
9. *Orthopaedic and Rehabilitation Devices Panel*
10. *Radiological Devices Panel*
11. *Technical Electronic Product Radiation Safety Standards Committee*

CDER

1. *Arthritis Advisory Committee*
2. *Oncologic Drugs Advisory Committee*
3. *Peripheral and Central Nervous System Drugs Advisory Committee*
4. *Advisory Committee for Pharmaceutical Science*
5. *Psychopharmacologic Drugs Advisory Committee*

CVM

1. *Veterinary Medicine Advisory Committee*

I. Criteria for Members

Persons nominated for membership on the committees as a consumer representative must: (1) Demonstrate ties to consumer and community-based organizations; (2) be able to analyze technical data; (3) understand research design; (4) discuss benefits and risks; and (5) evaluate the safety and efficacy of products under review. The consumer representative must be able to represent the consumer perspective on issues and actions before the advisory committee, serve as a liaison between the committee and interested consumers, associations, coalitions, and consumer organizations, and facilitate dialogue with the advisory committees on scientific issues that affect consumers.

II. Selection Procedures

Selection of members representing consumer interests is conducted through procedures that include use of organizations representing the public interest and consumer advocacy groups. The organizations have the responsibility of recommending candidates of the agency's selection.

III. Nomination Procedures

All nominations must include a cover letter, a curriculum vitae or resume (which should include nominee's office address, telephone number, and e-mail address), and a list of consumer or community-based organizations for which the candidate can demonstrate active participation.

Any interested person or organization may nominate one or more qualified persons for membership on one or more of the advisory committees to represent consumer interests. Self-nominations are also accepted. FDA will ask the potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflict of interest. The nomination should specify the committee(s) of interest. The term of office is up to 4 years, depending on the appointment date.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: April 15, 2003.

Lester M. Crawford,

Deputy Commissioner.

[FR Doc. 03–9959 Filed 4–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Circulatory System Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 29, 2003, from 9 a.m. to 5 p.m.

Location: Gaithersburg Holiday Inn, Walker/Whetstone Rooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Geretta Wood, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8320, ext. 143, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12625. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will hear a presentation on postmarket surveillance of diathermy interactions with implanted leads and implanted systems with leads. The committee will also discuss, make recommendations, and vote on a premarket approval application for an ablation catheter for treatment of atrial fibrillation in patients with drug refractory paroxysmal atrial fibrillation. Background information for the topic, including the agenda and questions for the committee, will be available to the public 1 business day before the meeting on the Internet at http://www.fda.gov/cdrh/panelmtg.html. Material will be posted on May 28, 2003.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 15, 2003. Oral presentations from the public will be scheduled for approximately 30 minutes at the beginning of committee deliberations and for approximately 30 minutes near the end of the deliberations. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 15, 2003, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at 301–594–1283, ext. 113, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 15, 2003.

Lester M. Crawford,

Deputy Commissioner.

[FR Doc. 03–9960 Filed 4–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03D–0163]

''Guidance for Industry: Recommendations for the Assessment of Donor Suitability and Blood Product Safety in Cases of Suspected Severe Acute Respiratory Syndrome (SARS) or Exposure to SARS;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled ''Guidance for Industry: Recommendations for the Assessment of Donor Suitability and Blood Product Safety in Cases of Suspected Severe Acute Respiratory Syndrome (SARS) or Exposure to SARS'' dated April 2003. The guidance document provides our recommendations for assessing donor suitability and blood product safety with respect to SARS. The guidance applies to whole blood and blood components intended for transfusion and to blood components including recovered plasma, source leukocytes, and source plasma intended for use in further manufacturing into injectable or noninjectable products.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Guidance for Industry: Recommendations for the Assessment of Donor Suitability and Blood Product Safety in Cases of Suspected Severe Acute Respiratory Syndrome (SARS) or Exposure to SARS'' dated April 2003. This guidance document provides our recommendations for assessing donor suitability and blood product safety with respect to SARS. This guidance applies to whole blood and blood components intended for transfusion and to blood components including recovered plasma, source leukocytes, and source plasma intended for use in further manufacturing into injectable or noninjectable products. FDA developed the recommendations in this guidance in consultation with other public health service agencies of the Department of Health and Human Services.

II. Comments

The agency is soliciting public comment, but is implementing this guidance immediately because the agency has determined that prior public participation is not appropriate since SARS may pose immediate safety risks to the blood supply. Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments regarding this guidance document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the guidance at either http://www.fda.gov/cber/guidelines.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: April 17, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–9986 Filed 4–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the President's Cancer Panel.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: President's Cancer Panel.

Date: May 27–28, 2003.

Time: 9 a.m. to 12 p.m.

Agenda: President's Cancer Panel.

Place: Lisbon Marriott Hotel, Av. Dos Combatentes 45,1600–042, Lisbon, Portugal.

Contact Person: Maureen O. Wilson, PhD, Executive Secretary, National Cancer Institute, National Institutes of Health, 31 Center Drive, Building 31, Room 3A18, Bethesda, MD 20892, (301) 496–1148.

Information is also available on the Institute's/Center's home page: *deainfo.nci.nih.gov/advisory/pcp/pcp.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 16, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10054 Filed 4–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Eye Council.

The meeting will be open to the public as indicated below, with

attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Eye Council.

Date: June 5–6, 2003.

Closed: June 5, 2003, 8:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6130 Executive Blvd., Rockville, MD 20852.

Open: June 5, 2003, 1:30 p.m. to 5 p.m.

Agenda: Following opening remarks by the Director, NEI, there will be presentations by staff of the Institute and discussions concerning Institute programs and policies.

Place: National Institutes of Health, 6130 Executive Blvd., Rockville, MD 20852.

Open: June 6, 2003, 8:30 a.m. to 12 p.m.

Agenda: Program Planning.

Place: National Institutes of Health, 6130 Executive Blvd., Rockville, MD 20852.

Contact Person: Lore Anne McNicol, Director, Division of Extramural Research, National Eye Institute, National Institutes of Health, Bethesda, MD 20892, 301–496–9110.

Information is also available on the Institute's/Center's home page: *http://www.nei.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: April 16, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10057 Filed 4–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Novel Therapeutic Strategies.

Date: May 2, 2003.

Time: 2:30 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maxine A. Lesniak, MPH, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 756, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7792, *lesniakm@extra.niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research, 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 16, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10056 Filed 4–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

Date: May 22, 2003.

Open: 8:30 a.m. to 12 p.m.

Agenda: The meeting will be open to the public to discuss administrative details relating to Council business and special reports.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Closed: 1 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Contact Person: Cheryl Kitt, PhD, Director, Division of Extramural Activities, National Institutes of Arthritis and Musculoskeletal and Skin Diseases, 1 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 594–2463, *kittc@niams.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: April 16, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10058 Filed 4–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 03–62, Review of K08 Grants.

Date: May 5, 2003.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lynn M. King. PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., Rm 4AN–38K, National Institute of Dental and Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, 301–592–5006.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 03–60, Review of R13 Grants.

Date: May 8, 2003.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 03–54, Loan Repayment Applications.

Date: May 14, 2003.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: April 16, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10059 Filed 4–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Chlamydial Genetics.

Date: April 21, 2003.

Time: 11:30 a.m. to 12:30 p.m..

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Timothy J. Henry, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 PTHA (03): Ventricular Remodeling Pathogenesis.

Date: April 21, 2003.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Larry Pinkus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7808, Bethesda, MD 20892, (301) 435–1214.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 PTHA (02): Angiotensin in Hypertensive Neurons.

Date: April 22, 2003.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Larry Pinkus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 780s, Bethesda, MD 20892, (301) 435–1214.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Studies of Anterior Eye Disease.

Date: April 24, 2003.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant application.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Mary Custer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, HSV 1 Latency.

Date: April 28, 2003.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Joanna M. Pyper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7808, Bethesda, MD 20892, (301) 435–1151, *pyperj@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG CDF–5 (90) Deffered (UV Induced Apoptosis).

Date: April 30, 2003.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant application.

Place: National Institutes of Health, Lawton Chiles International House, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sherry L. Dupere, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5138, MSC 7840, Bethesda, MD 20892, (301) 435–1021, *duper@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cancer Therapy.

Date: May 1, 2003.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant application.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6208, MSC 7804, Bethesda, MD 20892, (301) 435–1718, *perkinsp@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Smoking Cessation Programs for Adolescents.

Date: May 1, 2003.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Karen Sirocco, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, 301–435–0676. *sirocok@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Melanoma.

Date: May 2, 2003.

Time: 3 p.m. to 6 p.m.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Marcia Litwack, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6206, MSC 7804, Bethesda, MD 20892, 301–435–1719.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Radioimmunotherapy.

Date: May 2, 2003.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sharon K. Gubanich, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892, 301–435–1767.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical Oncology.

Date: May 5, 2003.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sharon K. Gubanich, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892, (301) 435–1767.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Dignity and Dying.

Date: May 6, 2003.

Time: 3 p.m. to 6 p.m.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Deborah L. Young-Hyman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7808, Bethesda, MD 20892, (301) 451–8008, *younghyd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ''Maintenance-Tailored Obesity Treatment''.

Date: May 6, 2003.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Micklin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 453–1258, *micklinm@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 16, 2003.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10055 Filed 4–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No.FR–4815–N–20]

Notice of Submission of Proposed Information Collection to OMB: Study of Project Size in Section 811 and Section 202 Assisted Projects for Persons with Disabilities

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 23, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; E-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of

response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice Also Lists the Following Information

Title of Proposal: Study of Project size in Section 811 and Section 202 Assisted Projects for Persons with Disabilities.

OMB Approval Number: 2528–XXXX.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use:

This congressionally mandated study is to investigate the social and economic impact of project size in HUD's Section 202 and Section 811 programs for disabilities. Telephone interviews will be conducted with a nationally representative sample of sponsor/managers of Section 811 and Section 202 properties.

Respondents: Individuals or households, Not-for-profit institutions.

Frequency of Submission: On occasion.

Reporting Burden: Number of Respondents: 150 Annual Responses: 1 x Hours per Response: 0.58 = Burden Hours: 87.5.

Total Estimated Burden Hours: 87.5.

Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 16, 2003.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 03–9965 Filed 4–22–03; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No.FR–4815–N–21]

Notice of Submission of Proposed Information Collection to OMB: Request for Acceptance of Changes in Approved Drawings and Specifications

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 23, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0117) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; E-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice Also Lists the Following Information:

Title of Proposal: Request for Acceptance of Changes in Approved Drawings and Specifications.

OMB Approval Number: 2502–0117.

Form Numbers: HUD–92577.

Description of the Need for the Information and its Proposed Use:

Builders who request changes to HUD's accepted drawings and specifications for proposed construction properties as required by homebuyers, or determined by the builder use this information collection. The lender reviews the changes and amends the approved exhibits. These changes may affect the value shown on the HUD commitment. HUD requires the builder to use the form to request changes, for proposed construction properties. These changes are requested by the homebuyers, or determined by the builder, to make the dwellings appeal to a broader segment of the market.

Respondents: Individuals or households, Business or other for-profit.

Frequency of Submission: On occasion.

Reporting Burden: Number of Respondents: 10,000 Annual Responses: x 1 Hours per Response: 0.5 = Burden Hours 5,000

Total Estimated Burden Hours: 5,000.

Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 16, 2003.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 03–9966 Filed 4–22–03; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by May 23, 2003.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Russell Davis, Sherwood, OR, PRT–069654.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok *(Damaliscus pygargus dorcas)* culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: David W. Inouye, University of Maryland, College Park, Maryland, PRT–067661.

The applicant requests a permit to import hair samples from golden langur *(Trachypithecus geei)* and capped langur *(Trachypithecus pileatus)* collected in the wild in Bhutan, for scientific research. This notification covers activities conducted by the applicant over a five year period.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Felix F. Gardina, Ghent, NY, PRT–069177.

The applicant requests a permit to import a polar bear (Ursus maritimus) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: March 28, 2003.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–9972 Filed 4–22–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of the Recovery Plan for the Alaska-Breeding Population of the Steller's Eider (*Polysticta stelleri*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability of the final recovery plan for the threatened Alaska-breeding population of the Steller's eider (*Polysticta stelleri*). The threatened Alaska-breeding population of Steller's eiders occurs in disjunct coastal and marine areas in northern and western Alaska. Although formerly locally common in portions of western and northern Alaska, they have nearly disappeared from western Alaska, and only hundreds or low thousands exist in northern Alaska. Causes of the decline are poorly understood. Recovery tasks include reduction of exposure to lead shot and other forms of human-caused mortality, acquisition of information on population parameters and ecology, re-establishment of the western Alaska subpopulation, and development of partnerships for recovery efforts.

ADDRESSES: Copies of this recovery plan are available by request from the Fairbanks Fish and Wildlife Office, 101 12th Ave., Box 19, Rm 110, Fairbanks, AK 99701 (telephone 907/456–0203; facsimile 907/456–0208) or from Fish and Wildlife Service, 5430 Grosvenor Lane, Suite 110, Bethesda, Maryland 20814, (301/429–6403 or 1–800–582–3421). The fee for the plan varies depending on the number of pages of the plan. This recovery plan will be made available on the World Wide Web at *http://endangered.fws.gov/RECOVERY/RECPLANS/Index.htm.*

FOR FURTHER INFORMATION CONTACT: Ted Swem, Endangered Species Branch Chief, at the above Fairbanks address.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To guide recovery, the Service is working to prepare recovery plans for most listed species native to the United States. Recovery plans describe actions considered necessary for conservation of species, establish criteria for downlisting or delisting, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. Information presented during the public comment period has been considered in the preparation of this final recovery plan. We will forward substantive comments regarding recovery plan implementation to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions.

Three breeding populations of Steller's eiders are recognized: two in Arctic Russia and one in Alaska. Neither Russian population is listed as threatened or endangered. The Alaska-breeding population is the only population listed as threatened or endangered, and this recovery plan pertains exclusively to the conservation of this population.

The Alaska-breeding population was listed as threatened under the Act on June 11, 1997 (62 FR 31748). The decision to list the Alaska-breeding population of Steller's eiders as threatened was based on a substantial decrease in the species' nesting range in Alaska and the resulting increased vulnerability of the remaining breeding population to extirpation. When the Alaska-breeding population of the Steller's eider was listed as threatened, the factor or factors causing the decline were unknown. Factors identified as potential causes of decline included predation, hunting, ingestion of spent lead shot in wetlands, and changes in the marine environment that could

affect Steller's eider food or other resources. Since listing, other potential threats have been identified, but the causes of decline and obstacles to recovery remain poorly understood. Accordingly, a significant number of early recovery tasks will involve research to identify threats and evaluate their impacts.

The objective of this plan is to establish a framework for the recovery of the Steller's eider so that protection by the Act is no longer necessary. Interim objectives are: (1) To prevent further declines of the Alaska-breeding population (including both the northern and western Alaska subpopulations); (2) to protect Alaska-breeding Steller's eiders and their habitats; (3) to identify and alleviate causes of decline and/or obstacles to recovery; and (4) to determine size, trends, and distribution of the northern and western Alaska-breeding subpopulations. The recovery plan provides criteria and threshold population levels for delisting and reclassification (*i.e.*, from threatened to endangered).

Authority: The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: March 31, 2003.

David B. Allen,

Regional Director.

[FR Doc. 03–9893 Filed 4–22–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Proposed Safe Harbor Agreement for the Pueblo of Santa Ana, Sandoval County, New Mexico

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability, receipt of application.

SUMMARY: The Pueblo of Santa Ana (Applicant), Sandoval County, New Mexico, has applied to the U.S. Fish and Wildlife Service (Service) for an enhancement for survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act (Act). The Applicant has been assigned permit number TE–049290–0. The permit request is for a period of 25 years. The permit application includes a proposed Safe Harbor Agreement (SHA) for the endangered Rio Grande silvery minnow *(Hybognathus amarus)*, the endangered southwestern willow flycatcher *(Empidonax traillii extimus)*, and the threatened bald eagle *(Haliaeetus leucocephalus)*.

Based upon guidance in the Service's June 17, 1999, Final Safe Harbor Policy, if a SHA and associated permit are not expected to individually or cumulatively have a significant impact on the quality of the human environment or other natural resources, the Agreement/permit may be categorically excluded from undergoing National Environmental Policy Act review. The Service has made a preliminary determination that this proposed action is eligible for categorical exclusion and this notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6). The Service explains the basis for this preliminary determination in an Environmental Action Statement, which is also available for public review.

We, the Service, announce the opening of a 30-day comment period and request comments from the public on the Applicant's enhancement of survival permit application, the accompanying proposed SHA, and the environmental action statement. All comments received will become part of the administrative record and may be released to the public.

DATES: Written comments on the application, proposed SHA, or environmental action statement should be received on or before 30 days from date of publication in the **Federal Register**.

ADDRESSES: Comments should be addressed to Field Supervisor, New Mexico Ecological Services Field Office, 2105 Osuna Road, Albuquerque, New Mexico 87113 (505/346–2525). Please refer to permit number TE–049290–0. You may obtain copies of the documents from the field office address above or by calling 505–346–2525.

FOR FURTHER INFORMATION CONTACT: Field Supervisor, New Mexico Ecological Services Field Office, 2105 Osuna Road, Albuquerque, New Mexico 87113; telephone: (505) 346–2525, facsimile (505) 346–2542.

SUPPLEMENTARY INFORMATION

Background

Under a Safe Harbor Agreement, participating property owners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefitting species listed under the Act. Safe Harbor Agreements encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners they will not be subjected to increased property use restrictions if their efforts attract listed species to their property or increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22 and 17.32.

The proposed SHA would cover the natural resource programs of Santa Ana Pueblo, Sandoval County, New Mexico, including: ecosystem restoration, range/wildlife, and water resources. The Applicant's ecosystem restoration program proposes to restore riparian, wetland, and riverine habitat along the Rio Grande and the Rio Jemez within the boundaries of the Pueblo. Restoration activities include replacing non-native plant species and restoring native wildlife habitat. The range/wildlife program proposes to improve the health of rangeland on Santa Ana Pueblo by continuing to exclude livestock from some riparian areas, conducting fish and wildlife surveys, and developing fire management plans. Activities conducted under the water resources program propose to develop water quality standards, water rights establishment, municipal wellhead protection, and planning and implementing projects through the U.S. Environmental Protection Agency's section 319 program.

The Applicant is proposing to conduct ecological restoration projects along the Rio Grande and Rio Jemez corridors. We anticipate this proposed SHA will result in the following benefits: (1) Construction of two additional gradient restoration facilities, which are sloping rock structures that provide river channel stabilization while maintaining fish passage; (2) prevention of further channel degradation within Santa Ana Pueblo by creating river reaches with low velocity flow; (3) replacement non-native vegetation with native willow (*Salix* sp.) and cottonwood (*Populus* spp.); (4) re-engineering of the river channel and lower adjacent river bars to widen the channel and encourage overbank flooding; (5) creation of backwater habitat, including a healthy riparian zone; (6) continuation of livestock exclusions from various riparian areas; and (7) encouragement of recruitment of native riparian habitat, including the regeneration of mature cottonwood stands. The conservation provided by this proposed 25-year SHA is intended to improve habitat conditions by maintaining and enhancing habitat, reducing the likelihood that the river channel will become narrower and deeper, increasing the opportunities for overbank flooding and a higher water table.

Consistent with the Safe Harbor Agreement policy and implementing regulations, we propose to issue a permit to the Applicant authorizing them to incidentally take these endangered and threatened species, which occur on the enrolled lands, as a result of lawful activities on enrolled lands, so long as baseline conditions are maintained and terms of the Agreement are implemented. Future activities of the Applicant could result in a return to the baseline condition.

We provide this notice pursuant to section 10(c) of the Act and pursuant to implementing regulations for NEPA (40 CFR 1506.6). We will evaluate the proposed SHA, associated documents, and comments submitted thereon to determine whether the requirements of section 10(a) of the Act and NEPA regulations have been met. If we determine that the requirements have been met, we will sign the SHA and issue an enhancement of survival permit under section 10(a)(1)(A) of the Act to Santa Ana Pueblo in accordance with the terms of the Agreement and specific terms and conditions of the authorizing permit. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received.

Susan MacMullin,

Acting Regional Director, Region 2.

[FR Doc. 03–9979 Filed 4–22–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Public Meeting on the Harvest and Export of American Ginseng

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Announcement of meeting.

SUMMARY: This notice announces the time and place for a public meeting on American ginseng (*Panax quinquefolius*). In preparation of the U.S. Fish and Wildlife Service's current and future finding for the export of American ginseng, we are particularly interested in obtaining any current information on the status of American ginseng in the wild. We will discuss the Federal regulatory framework for the export of American ginseng and how these regulations control the international trade of this plant. We will also discuss the different CITES definitions as they are applied to American ginseng grown under different production systems and how these systems affect the export of ginseng roots.

DATES: The public meeting will be held on May 21, 2003, from 9 a.m. to 4 p.m., in Lexington, Kentucky.

ADDRESSES:

Public Meeting

The public meeting will be held at the Holiday Inn North, 1950 Newton Pike, Lexington, Kentucky. Directions to the meeting location can be obtained by contacting the Division of Scientific Authority or the Division of Management Authority (*see* **FOR FURTHER INFORMATION CONTACT,** below) or by visiting our World Wide Web site: *http://international.fws.gov/animals/ginindx/.html.* Please note that the location is accessible to the handicapped, and all persons planning to attend the meeting will be required to present photo identification when entering the building. Persons planning to attend the meeting who require interpretation for the hearing impaired must notify the Division of Scientific Authority as soon as possible (*see* **FOR FURTHER INFORMATION CONTACT,** below).

Available Information

Information from the U.S. Fish and Wildlife Service's American ginseng workshop, held in St. Louis, Missouri, February 19–21, 2003, is available upon request from the Division of Scientific Authority or the Division of Management Authority (*see* **FOR FURTHER INFORMATION CONTACT,** below), a copy of the workshop report will be available from our World Wide Web site *http://international.fws.gov/animals/ginindx/.* The purpose of the workshop was to meet with representatives of State and Federal agencies, as well as to recount the results of new research by academics, on the status and management of American ginseng and the CITES export program for the species. We worked cooperatively with representatives of these State and Federal agencies to develop recommendations to improve the management and the CITES export program of this plant.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Gabel, Chief, Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 750, Arlington, VA 22203; e-mail at *scientificauthority@fws.gov;* fax: 703–358–2276; or Dr. Peter O. Thomas, Chief, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203; e-mail at: *managementauthority@fws.gov;* fax: 703–358–2298.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention) is an international treaty designed to control and regulate international trade in certain animal and plant species that are now or potentially may be threatened with extinction by international trade. These species are listed in Appendices to CITES, copies of which are available from the Division of Scientific Authority or the Division of Management Authority at the above addresses, from our World Wide Web site *http://international.fws.gov,* or from the official CITES Secretariat World Wide Web site: *http://www.cites.org/.* Currently, 161 countries, including the United States, are Parties to CITES. American ginseng (*Panax quinquefolius*) was listed in appendix II of CITES on July 1, 1975. The Division of Scientific Authority and the Division of Management Authority of the U.S. Fish and Wildlife Service regulate the export of American ginseng, including whole plants, whole roots, and root parts. To meet CITES requirements for export of American ginseng from the United States, the Division of Scientific Authority must determine that the export will not be detrimental to the survival of the species, and the Division of Management Authority must be satisfied that the American ginseng roots to be exported were legally acquired.

Since the inclusion of American ginseng in CITES appendix II, the Divisions of Scientific Authority and Management Authority have issued findings on a State-by-State basis. To determine whether or not to approve exports of American ginseng, the Division of Scientific Authority has annually reviewed available information from various sources (other Federal agencies, State regulatory agencies, industry and associations, nongovernmental organizations, and academic researchers) on the biology and trade status of the species. After a thorough review, the Division of Scientific Authority makes a non-detriment finding and the Division of Management Authority makes a legal acquisition finding on the export of American ginseng to be harvested during the year in question. As of 1999, the Division of Scientific Authority has included in its non-detriment findings for the export of wild (including wild-simulated) American ginseng roots an age-based restriction (*i.e.*, plants must be at least 5 years old).

States with harvest programs for wild and/or cultivated American ginseng include: Alabama, Arkansas, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Michigan, Minnesota, Missouri, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Tennessee, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

During the week of February 17, 2003, the Divisions of Scientific Authority and Management Authority hosted an American ginseng workshop in St. Louis, Missouri, with representatives of State and Federal agencies that regulate the plant to discuss the status and management of American ginseng and the CITES export program for the species. The workshop provided an important opportunity for representatives of the States and Federal agencies to work cooperatively to develop recommendations to improve the management and the CITES export program of this plant. In anticipation of this year's and future findings, we are now seeking public input on the wild status, production, and export of American ginseng. In particular, we are most interested in any new information on wild ginseng, and the production and export of wild-simulated and woods-grown American ginseng.

Author

The primary author of this notice is Patricia Ford, the Division of Scientific Authority, U.S. Fish and Wildlife Service.

Dated: March 27, 2003.

Marshall P. Jones Jr.,

Acting Director.

[FR Doc. 03–9987 Filed 4–22–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Submission to OMB for Approval of Tribal Self-Governance Program Information Collection

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs is submitting a request for an extension of an information collection from potential Self-Governance Tribes, as required by the Paperwork Reduction Act. The information collected under OMB Clearance Number 1076–0143 will be used to establish requirements for entry into the pool of qualified applicants for self-governance, to provide information for awarding planning and negotiation grants, and to meet reporting requirements of the Self-Governance Act.

DATES: Submit comments on or before May 23, 2003.

ADDRESSES: Written comments can be sent to: The Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of the Interior, 725 17th Street NW., Washington, DC 20503. A copy should be sent to William Sinclair, Office of Self-Governance, 1849 C Street, NW., Mail Stop 2548 MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the information collection request submission and the Federal Register notice by contacting William Sinclair, (202) 219–0244.

SUPPLEMENTARY INFORMATION: The **Federal Register** notice of proposed information collection activities was published in the **Federal Register** on November 27, 2002 (67 FR 70964). No comments were received. You are advised that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information that does not display a valid OMB clearance number. For the Self-Governance collection of information, the response is voluntary, to obtain or retain a benefit, depending upon the parts of the program being addressed.

The Self-Governance program was authorized by the Tribal Self-Governance Act of 1994, Public Law 103–413, as amended. Tribes interested in entering into Self-Governance must submit certain information as required by Public Law 103–413, as amended, to support their admission into Self-Governance. In addition, those tribes and tribal consortia who have entered into self-governance compacts will be requested to submit certain information as described in the negotiated rules published in final form on December 15, 2000 (65 FR 78688). This information will be used to justify a budget request submission on their behalf and to comport with section 405 of the Act that calls for the Secretary to submit an annual report to the Congress.

You may submit comments about the collection to evaluate the following:

(a) The accuracy of the burden hours, including the validity of the methodology used and assumptions made;

(b) The necessity of the information for proper performance of the bureau functions, including its practical utility;

(c) The quality, utility, and clarity of the information to be collected; and,

(d) Suggestions to reduce the burden including use of automated, electronic, mechanical, or other forms of information technology.

Please submit your comments to the persons listed in the **ADDRESSES** section. Please note that comments, names and addresses of commentators, will be available for public review during regular business hours. If you wish your name and address withheld from the public, you must state this prominently at the beginning of your comments. We will honor your request to the extent allowable by law.

OMB is required to make a decision concerning this information collection request between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment will receive the best consideration by OMB if it is submitted early during this comment period.

Type of review: Renewal.

Title: Tribal Self-Governance Program—25 CFR 1000.

OMB Control No.: 1076–0143.

Affected Entities: Tribes and tribal consortiums wishing to enter into a self-governance compact.

Size of Respondent Pool: 95.

Number of Annual Responses: 213.

Average Hours per Response: 48 hours.

Yearly Hour Burden: 10,498 hours.

Annual Non-Hourly Burden Cost: $16,000.

Dated: April 15, 2003.

Aurene M. Martin,

Assistant Secretary—Indian Affairs.

[FR Doc. 03–10071 Filed 4–22–03; 8:45 am]

BILLING CODE 4310–W8–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Public Meeting: Resource Advisory Council to the Lower Snake River District

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Lower Snake River District Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting will be held May 21, 2003 at the Marsing Community

Center, located at 126 Bruneau Highway, Marsing, Idaho, beginning at 9 a.m. Public comment periods will be held after each topic on the agenda. The meeting will adjourn at 5 p.m.

FOR FURTHER INFORMATION CONTACT: MJ Byrne, Public Affairs Officer and RAC Coordinator, Lower Snake River District, 3948 Development Ave., Boise, ID 83705, Telephone (208) 384–3393.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in southwestern Idaho. At this meeting, the following topics will be discussed:

- RAC Members will discuss with BLM representatives what role they envision the Members playing in the ''Working Landscape-Grazing Policy Changes'' Initiative after the three ''Listening'' public meetings held around Idaho, in April;
- A presentation will be given on RS 2477 and the new handbook issued in November, 2002, entitled, ''Road Management and Maintenance Guidelines for Public Lands in Idaho'';
- A video will be shown during lunch about noxious weeds;
- An update will be given on the two Resource Management Plans under development in the District;
- Subcommittee reports on Rangeland Standards and Guidelines, Sage Grouse Habitat Management, OHV and Transportation Management, River Recreation and Resource Management Plans, and Fire and Fuels Management; and
- Each of the Field Office Managers will provide an update on current activities and issues in each of their field office areas.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided below. Expedited publication is requested to give the public adequate notice.

Dated: April 17, 2003.

Jimmie Buxton,

Acting Associate District Manager.

[FR Doc. 03–9980 Filed 4–22–03; 8:45 am]

BILLING CODE 4310–AG–P

DEPARTMENT OF THE INTERIOR

National Park Service

Extension for Expiring Concession Contracts

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

SUMMARY: Pursuant to 36 CFR 51.23, notice is hereby given that the National Park Service intends to extend the following expiring concession contract for a period of up to 6-months, or until such time as a new contract is awarded, whichever occurs sooner.

Concessioner ID No.	Concessioner name	Park
CC–EVER002–82	Everglades National Park Boat Tours, Inc.	Everglades NP

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, Washington, DC 20240, Telephone 202/513–7144.

SUPPLEMENTARY INFORMATION: The concession authorization expires on its terms on December 31, 2002. The National Park Service has determined that the proposed 6-month extension is necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption. This extension will allow the National Park Service to develop a prospectus leading to competitive selection for a new long-term concession contract.

Dated: February 14, 2003.

Richard G. Ring,

Associate Director, Administrator, Business Practices and Workforce Development.

[FR Doc. 03–10022 Filed 4–22–03; 8:45 am]

BILLING CODE 4310–76–M

DEPARTMENT OF THE INTERIOR

National Park Service

Release of an Environmental Assessment Document for the Placement of Wireless Telecommunication Facilities

AGENCY: National Park Service, Catoctin Mountain Park.

ACTION: Reduction in the number of public informational meetings.

SUMMARY: Catoctin Mountain Park will release for public review, the Environmental Assessment document for the application regarding the placement of wireless telecommunication facilities (WTF). The public information meeting scheduled for April 29, 2003 will not be held. Two meetings were originally scheduled because the meetings were to be held during the winter months; since the meetings are being held in the spring, only one will be held. The public informational meeting of May 1, 2003 will be held as scheduled at Catoctin Mountain Park, Round Meadow Conference Room at 7 p.m.

DATES: Environmental Assessment release date—April 18, 2003.

Document Availability: The Environmental Assessment document will be available for public review at Catoctin Mountain Park headquarters located at 6602 Foxville Road, Thurmont Maryland, at Washington County Library (Hagerstown and Smithsburg branches) and Frederick County Library (Frederick and Thurmont branches) and online at the Catoctin Mountain Park's Web site *http://www.nps.gov/cato.*

FOR FURTHER INFORMATION CONTACT: Scott Bell, Environmental Protection Specialist, 301/416–0536.

Dated: April 16, 2003.

J. Mel Poole,

Superintendent, Catoctin Mountain Park.

[FR Doc. 03–10023 Filed 4–22–03; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement/ General Management Plan Santa Monica Mountains National Recreation Area Ventura and Los Angeles Counties, CA; Notice of Approval of Record of Decision

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended) and the implementing regulations promulgated by the Council on Environmental Quality (40 CFR part 1505.2), the Department of the Interior, National Park Service has prepared, and the Regional Director, Pacific West Region has approved, the Record of Decision for the General Management Plan for Santa Monica Mountains National Recreation Area, in southern California. The formal no-action period was officially initiated January 31, 2003, with the U.S. Environmental Protection Agency's **Federal Register** notification of the filing of the Final Environmental Impact Statement (EIS).

Decision: As soon as practicable the NPS will begin to implement the General Management Plan described and analyzed as the Preferred Alternative contained in the Final EIS. The selected plan features a deliberate, long-term strategy to protect significant cultural and natural resources, while providing for compatible recreation (*e.g.*, hiking, wildlife observation) and increased educational opportunities to a diverse public. This plan was also deemed to be the ''environmentally preferred'' alternative.

This course of action and four alternatives were identified and analyzed in the Final EIS, and previously in the Draft EIS (the latter was distributed in December 2000). The full spectrum of foreseeable environmental consequences was assessed, and appropriate mitigation measures identified, for each alternative. Beginning with early scoping, through the preparation of the Draft and Final EIS, numerous public meetings were conducted and newsletter updates (in english and spanish) were regularly produced. Approximately 600 written comments responding to the Draft EIS were received and duly considered. No substantive or adverse comments responding to the Final EIS were received during the no-action period which ended on March 3, 2003. Key consultations which aided in the preparation of the Draft and Final EIS involved (but were not limited to) the U.S. Fish and Wildlife Service, California Dept. of Fish and Game, State Historic Preservation Office, native American Tribes, Los Angeles and Ventura Counties, cities of Thousand Oaks, Malibu and Calabasas, and the Santa Monica Mountains Conservancy.

Copies: Interested parties desiring to review the Record of Decision may obtain a complete copy by contacting the Acting Superintendent, Santa Monica Mountains National Recreation Area, 401 West Hillcrest Dr., Thousand Oaks 91360–4223; or via telephone request at (805) 370–2300.

Jonathan B. Jarvis,

Regional Director, Pacific West Region.

[FR Doc. 03–10027 Filed 4–22–03; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Environmental Impact Statement\Fire Management Plan, Whiskeytown National Recreation Area, Shasta County, CA; Notice of Availability

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, 42 U.S.C. 4321–4347, January 1, 1970, as amended), and the Council on Environmental Quality Regulations (40 CFR Part 1500–1508), the National Park Service, Department of the Interior, has prepared a Draft Environmental Impact Statement identifying and evaluating four alternatives for a Fire Management Plan for Whiskeytown National Recreation Area, in northern California. Potential impacts and mitigating measures are described for each alternative. The alternative selected after this conservation planning and environmental impact analysis process will serve as a blueprint for fire management actions at Whiskeytown National Recreation Area over the next 10 years.

This Whiskeytown Fire Management Plan (FMP) and Draft Environmental Impact Statement (DEIS) identifies and analyzes three action alternatives, and a no action alternative, for a revised Fire Management Plan at Whiskeytown National Recreation Area. Revisions to the current plan are needed to meet public and firefighter safety, natural and cultural resource management, and wildland urban interface objectives of the park. The action alternatives vary in the emphasis they place on fire management goals developed by the park. The current program has been effective in fire suppression, but has not been able to restore large portions of the park landscape to circa 1800 conditions as required by the 2000 General Management Plan (GMP). Each action alternative contains an amendment to the park's GMP to clarify that the park's administration building may be rebuilt in its current location at park headquarters in conjunction with relocating the fire cache to the Oak Bottom recreational complex.

Whiskeytown National Recreation Area is located eight miles west of Redding, California and encompasses 42,500 acres, including the 3000-acre Whiskeytown Lake—a reservoir created as part of California's Central Valley Project, Trinity River Diversion. In the past, wildland fire occurred naturally in the park as an important ecosystem process that kept forest fuels and vegetation structure within the natural range of variability. Mining, logging and fire suppression activities have lead to increased fuel loads and changes in vegetation community structure. This has increased the risk of large, high-intensity wildland fire within the park, threatening developed zones, the park's natural and cultural resources, and neighboring landowners and communities.

Alternatives: Under the park's preferred alternative (Alternative IV), the park would focus on restoring Whiskeytown's plant communities to reduce the risk of high severity wildland fire by decreasing forest stand density, reducing surface fuels, and attempting to restore fire as a natural disturbance process to the greatest extent feasible using prescribed fire, mechanical treatment and managed wildland fire when appropriate. Up to 2,200 acres per year would be treated through prescribed fire and wildland fire use. Three levels of mechanical treatment would be utilized to reduce fuel levels and mimic the effects of fire on structural patterns of woody vegetation, including the use of hand tools, chainsaws, weed eaters, chippers, brush mastication and small-scale logging of trees up to 12 inches in diameter at breast height. Mechanical treatment would be used to reduce forest fuels in and around developed areas, and to install and widen some new and existing shaded fuel breaks. Mechanical treatment would be used on up to 1,075 acres per year.

Under the no-action alternative (Alternative I), the current fire management program would continue utilizing a limited range of fire management strategies—including prescribed fire, limited mechanical treatment and suppression of all wildland fires (including natural

ignitions). The current program includes both broadcast and pile burning components, with prescribed fire projects ranging in size from 0.5 to 1,000 acres occurring in all vegetation types. Maximum burning in a given year under this alternative would be 1,400 acres. Limited mechanical treatment methods would be utilized to reduce hazardous fuel levels in the park. These would include the use of chain saws, weed-eaters, hand crews, and chippers to clear around buildings, to install and maintain shaded fuel breaks, and to clear along roadways. Total maintained shaded fuel break system would be 850 acres, with maintenance occurring at least once every three years as needed. Annual average maintenance of all mechanically treated areas under Alternative I would be 275 acres.

Under Alternative II, the fire program would focus on the application of prescribed fire to meet ecological restoration objectives, and to reduce hazardous fuels throughout the park. All other fires would be suppressed including natural ignitions. Mechanical treatment would only be used to construct prescribed fire burn unit boundaries and to reduce fuels around developed areas. Alternative II would only utilize hand tools, chainsaws, weed eaters and chippers for mechanical treatment for an average 80 acres annually. This alternative would include pile burning and broadcast burning. Projects under Alternative II would include areas up to 1,000 acres in size to simulate, to the greatest extent feasible, the scale and pattern of natural fire events. Up to 3,000 acres would be burned during each year of implementation. Due to windows of opportunity during the dormant season, Alternative II would implement prescribed burns during the non-dormant season from 10%–20% of the time to maximize opportunities for execution of prescribed fire projects.

Under Alternative III, all natural and human-ignited wildland fires would be suppressed. Prescribed burning would only occur in conjunction with mechanical fuel treatments around developments and on shaded fuel breaks. Alternative III would consist of pile burning and a few prescribed fire projects to strengthen and widen by up to ¼ to ½ mile shaded fuel breaks for tactical purposes in the case of suppression fire events. No large, prescribed fires would be conducted. Up to 250 acres would be burned during each year of implementation. This alternative would use mechanical treatment to reduce forest fuels in and around developed areas, and to install new, and widen existing shaded fuel breaks. Hand tools, chainsaws, weed eaters, chippers, and brush masticators would be used. Annual program levels would be up to 225 acres for each of the two mechanical treatment levels proposed in this alternative.

Alternative IV is the ''environmentally preferred'' alternative; comparative analysis in this regard is provided in the DEIS. Also, an element common to all of the action alternatives is the possible amending of the 2000 GMP with regard to options for future locations of operational and administrative facilities.

Planning Background: A Notice of Intent was published in the **Federal Register** on August 8, 2001, and the scoping period ended on September 15, 2001 (although comments were accepted throughout 2002). During this time the NPS held discussions and briefings with local communities; local residents; local, regional and state fire organizations; air quality regulators; other agency representatives; tribes; park staff; elected officials; public service organizations and other interested members of the public. A public scoping meeting was held on August 23, 2001 in the town of Old Shasta, in the Shasta Elementary School Multipurpose room. Twenty members of the public attended. The meeting included a question and answer period and time for public comments. The issues raised during this period are summarized in Chapter 1, Purpose and Need of the DEIS.

Comments: The FMP/DEIS will be sent directly to those who have requested it. Copies will also be available at park headquarters and at local and regional libraries, and the complete document will be posted on the park's Web site at *http://www.nps.gov/whis/exp.* Written comments must be postmarked (or transmitted by e-mail) no later than sixty days from the date of EPA's notice of filing published in the **Federal Register**—immediately upon determining this date it will be announced on the park's Web site. All comments should be addressed to the Superintendent and mailed to Whiskeytown National Recreation Area, PO Box 188, Whiskeytown, CA 96095 (Attn: Fire Management Plan); or e-mailed to *whis_planning@nps.gov* (in the subject line, type: Fire Management Plan).

In order to facilitate public review and comment on the FMP/DEIS, the Superintendent will schedule public meetings in the local area, which at this time are anticipated to occur in late spring, 2003. Whiskeytown employees will attend all sessions to present the FMP/DEIS, to receive oral and written comments, and to answer questions. Participants are encouraged to review the document prior to attending a meeting. As with the public scoping meeting, confirmed details on location and times for these comment opportunities will be widely advertised in the local and regional media, on the park's website, and via direct mailings to agencies, organizations and interested members of the public.

All comments are maintained in the administrative record and will be available for public review at park headquarters. If individuals submitting comments request that their name and/or address be withheld from public disclosure it will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of the comments. As always: NPS will make available to public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses; and, anonymous comments may not be considered.

Decision Process: Depending on the degree of public interest and response from other agencies and organizations, at this time it is anticipated that the Final Environmental Impact Statement and Fire Management Plan will be completed in late 2003. The availability of the Final EIS will be published in the **Federal Register**, and announced via local and regional press and website postings. Subsequently, a Record of Decision may be approved not sooner than thirty days after the Final EIS and FMP document is distributed. As a delegated EIS, the official responsible for the final decision is the Regional Director, Pacific West Region, National Park Service. Subsequently, the official responsible for implementation is the Superintendent, Whiskeytown National Recreation Area.

Dated: March 6, 2003.

Jonathan B. Jarvis,

Regional Director, Pacific West Region.

[FR Doc. 03–10026 Filed 4–22–03; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare a General Management Plan and Environmental Impact Statement

AGENCY: National Park Service, Interior.

SUMMARY: Pursuant to section 102 (2)(C) of the National Environmental Policy

Act of 1969, the National Park Service announces their intent to prepare a General Management Plan and Environmental Impact Statement (GMP/EIS) for Governors Island National Monument, New York. The 21.69-acre Monument contains historic Fort Jay and Castle Williams and other properties located on 172-acre Governors Island, which lies about ½ mile south of Manhattan. The Monument's GMP/EIS will propose a long-term approach to managing the Governors Island National Monument, and will be prepared in cooperation with redevelopment plans being prepared by the Governors Island Preservation and Education Corporation. Consistent with the monument's mission, NPS policy, and other laws and regulations, alternatives will be developed to guide the management of the Monument over the next 15 to 20 years. The alternatives will incorporate various zoning and management prescriptions to ensure resource preservation and public enjoyment of the Monument. The environmental consequences that could result from implementing the various alternatives will be evaluated in the plan. Impact topics will include cultural and natural resources, visitor experience, park operations, the socioeconomic environment, impairment, and sustainability. The public will be invited to express concerns about the management of the Monument early in the process through public meetings and other media; and will have an opportunity to review and comment on a draft GMP/EIS. Following public review processes outlined under NEPA, the final plan will become official, authorizing implementation of a preferred alternative. The target date for the Record of Decision is February 7, 2006, 3 years from the date the Monument was established.

FOR FURTHER INFORMATION CONTACT: Superintendent, Governors Island National Monument, c/o 200 Chestnut Street, Philadelphia, PA 19106, (215) 597–1587.

Dated: April 1, 2003.

Linda Neal,

Superintendent, Governors Island National Monument.

[FR Doc. 03–10025 Filed 4–22–03; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 29, 2003. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–343–1836. Written or faxed comments should be submitted by May 8, 2003.

Carol D. Shull,

Keeper of the National Register of Historic Places.

ILLINOIS

Du Page County

Butler School, 1200 31st. St. (Oak Brook Rd.), Oak Brook, 03000355

Ogle County

Oregon Public Library (Illinois Carnegie Libraries MPS), 300 Jefferson St., Oregon, 03000352

Stephenson County

AF and AM Lodge 687, Orangeville, 203 W. High St., Orangeville, 03000354

Whiteside County

Lyndon Bridge, S end of 6th Ave. W., Lyndon, 03000353

IOWA

Sac County

Chicago and North Western Passenger Depot, 3727 Perkins Ave., Wall Lake, 03000358

Story County

Nevada Downtown Historic District (Nevada Central Business District MPS), Approx. 6th St. from I Ave. to M Ave., Nevada, 03000356

Webster County

Oleson Park Music Pavilion, 1400 Oleson Park Ave., Fort Dodge, 03000357

Woodbury County

Sanford, Arthur and Stella, House, 1925 Summit, Sioux City, 03000359

KANSAS

Butler County

Little Walnut River Pratt Truss Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), SW 160th Rd., 0.5 mi. W of int. with Purity Springs Rd., Bois D'Arc, 03000377

Chase County

Cottonwood River Pratt Truss Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), Main St., 0.8 mi. W of int. with 1st St., Cedar Point, 03000376

Dickinson County

Chapman Creek Pratt Truss Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), Quail Rd., 1.7 mi. S of int. with KS 18, 2.5 mi. N of Chapman, Chapman, 03000375

Franklin County

Eight Mile Creek Warren Truss Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), Osborne Terrace, 0.2 mi. W of int. with Eisenhower Terrace, 1.0 W of Main St., Ottawa, 03000374

Geary County

Old Katy Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), Otter Creek Rd., 0.5 mi. S of int. with Lyons Creek Rd., 0.5 mi. SE of Wreford, Wreford, 03000370

Jefferson County

Delaware River Composite Truss Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), Coal Creek Rd., 0.1 mi. S of int. with 170th Rd., Valley Falls, 03000371

Delaware River Parker Truss Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), Bridge St., 0.3 mi. W of int. with Main St., Perry, 03000372

Leavenworth County

Begley Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), Two unnamed farm rds flanking Stranger Creek 1.1 mi. W of jct. with 227th St. and Roe Rd., 1.75 mi. NW of Millwood, Millwood, 03000373

Lincoln County

Salt Creek Truss Leg Bedstead Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), B Rd., 0.6 mi. E of int. with 24th Rd., 1.0 mi. N of Barnard, Barnard, 03000368

McPherson County

North Gypsum Creek Truss Leg Bedstead Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), Sioux Rd., 0.2 mi. E of int. with 24th Ave., 1.0 mi. S and 2.8 mi. W of Roxbury, Roxbury, 03000367

Nemaha County

Clear Creek Camel Truss Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), Unnamed Rd., 0.5 mi. W of FAS 485, 6.8 mi. N of Baileyville, Baileyville, 03000360

Norton County

North Fork Solomon River Lattice Truss Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), Rd. W&, 0.1 mi. S of int. with Rd. BB, 1.5 mi. W of Lenora, Lenora, 03000366

Sand Creek Truss Leg Bedstead Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), Rd. Y, 0.5 mi. W of int. with KS 283, 2 mi. N of KS 9 and 6 mi. NE of Lenora, Lenora, 03000365

Osage County

Atchison, Topeka, and Santa Fe Pratt Truss Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), SE Pine St., 0.1 mi. S of int. with E. Emporia St., Melvern, 03000364

Osborne County

East Fork Wold Creek Pratt Truss Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), W 290th Dr., 0.8 mi. E of jct. with S. 50th Ave., 2.0 mi. S and 4.0 mi. E of Cheyenne, Delhi, 03000361

Phillips County

Battle Creek King Post Truss Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), W. Eagle Rd., 3.0 mi. E of jct. with Washington Rd., Long Island, 03000362

Shawnee County

Wea Creek Bowstring Arch Truss Bridge (Metal Truss Bridges in Kansas 1861—1939 MPS), Grounds of the Kansas State Historical Society, 6425 SE 6th Ave., Topeka, 03000363

LOUISIANA

Vernon Parish

Talbert—Pierson Grave Shelters, Victor Martin Rd., Sugartown, 03000378

MASSACHUSETTS

Essex County

High Street Cemetery, 45 High St., Danvers, 03000382

Main Street Historic District, Main, Summer Sts., Haverhill, 03000383

Middlesex County

Fells Connector Parkways, Metropolitan System of Greater Boston (Metropolitan Park System of Greater Boston MPS), Fellsway East: E. Border Rd. To Fellsway W; Fellsway West: Fulton St. to Fellway E; Fellsway: Fellsway E to Wellington Br, Malden and Medford, 03000379

Fellsmere Park Parkways, Metropolitan Park System of Greater Boston (Metropolitan Park System of Greater Boston MPS), W. Border Rd, Boundary Rd., Malden, 03000381

Suffolk County and Essex County

Lynn Fells Parkway, Metropolitan Park System of Greater Boston (Metropolitan Park System of Greater Boston MPS), Lynn Fells Parkway, Melrose, Saugus, 03000380

Savin Hill Historic District, Roughly along Savin Hill Ave., then bounded by William T Morrissey Blvd., Dorchester Bay and Hubbardston Rd., Boston, 03000385

Worcester County

Brookfield Cemetery, Main St., Brookfield, 03000384

MICHIGAN

Leelanau County

Riverside Inn, 302 E. River St., Leland, 03000386

MISSISSIPPI

Hinds County

Spengler—Thomas Building, 129 S. President, Jackson, 03000387

Jasper County

Montrose Presbyterian Church, Cty. Rd. 20, Montrose, 03000388

NEW JERSEY

Passaic County

Reihardt Mills, 283–297 21st Ave., 122–136 20th Ave., 46–72 Gray St., 45–67 State St., Paterson City, 03000393

NORTH CAROLINA

Macon County

Baldwin—Coker Cottage, 226 Lower Lake Rd., Highlands, 03000390

Wake County

Roanoke Park Historic District (Five Points Neighborhoods, Raleigh, North Carolina MPS), Roughly bounded by Whitaker Mill Rd., Fairview Rd., Morrison Ave., Sunrise Ave., and Brickett Blvd., Raleigh, 03000389

Vanguard Park Historic District (Five Points Neighborhoods, Raleigh, North Carolina MPS), Roughly bounded by McCarthy St., Whitaker Mill Rd., Pine Ave., and Hudson St., Raleigh, 03000391

Wilkes County

Downtown Main Street Historic District, Roughly the 800 and 900 Blks. of Main St., North Wilkesboro, 03000392

TENNESSEE

Madison County

Riverside Cemetery, 300 Riverside Dr., Jackson, 03000394

VERMONT

Addison County

Vergennes Residential Historic District, S. Water St., Green St., S. Maple St.-S of Main St., Vergennes, 03000395

VIRGINIA

Mecklenburg County

Rudd Branch Ridge—Complexes #1 and #2 (Archeological Sites within the John H. Kerr Reservoir Area), Address Restricted, Boydton, 03000396

[FR Doc. 03–10028 Filed 4–22–03; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: Peabody Essex Museum, Salem, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Peabody Essex Museum, Salem, MA, that meet the definition of ''unassociated funerary objects'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations within this notice.

The cultural items were collected by J.S. Emerson sometime between the 1880s and the early 1900s and purchased for the Peabody Essex Museum by Dr. C.G. Weld on June 12, 1907. In documentation accompanying the collection, Mr. Emerson indicated that he had found the items in ancient burial caves in Kohala and Kau, HI. He referred to the eight unassociated funerary objects as ''a runner of a holua sled,'' ''a small hue,'' an ''ipu le'i, a very deep bowl with a calabash cover,'' an ''ipukai waiho i'a, a very old wooden fish bowl,'' a ''pa inamona, wooden bowl,'' ''two pieces of an old umeke (wooden poi bowl),'' all from Kanupa Cave in Kohala, and a ''kioe i'a, a cocoanut shell spoon or ladle'' from a burial cave in Kau. Kohala and Kau are both on the Island of Hawaii.

During consultation, representatives of Hui Malama I Na Kupuna O Hawai'i Nei, Ka Lahui Hawai'i, and the Office of Hawaiian Affairs indicated their desire to repatriate the cultural items. Officials of the Peabody Essex Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Peabody Essex Museum also have determined following consultation with Bernice P. Bishop Museum professional staff that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the cultural items and Hui Malama I Na Kupuna O Hawai'i Nei, Ka Lahui Hawai'i, and the Office of Hawaiian Affairs.

Representatives of any other Native Hawaiian organization that believes itself to be culturally affiliated with the cultural items should contact Christina Hellmich, Director of Collections Management, Peabody Essex Museum,

East India Square, Salem, MA 01970, telephone (978) 745-1876, facsimile (978) 744-0036, before May 23, 2003. Repatriation of the unassociated funerary objects to Hui Malama I Na Kupuna O Hawai'i Nei, Ka Lahui Hawai'i, and the Office of Hawaiian Affairs may proceed after that date if no additional claimants come forward.

The Peabody Essex Museum is responsible for notifying Hui Malama I Na Kupuna O Hawai'i Nei, Ka Lahui Hawai'i, and the Office of Hawaiian Affairs that this notice has been published.

Dated: March 27, 2003.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 03–10030 Filed 4–22–03; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day notice of information collection under review: revision of currently approved collection; COPS Count Survey.

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until June 23, 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 collections instrument with instructions or additional information, please contact Gretchen DePasquale, (202) 305–7780, Office of Community Oriented Policing Services, 1100 Vermont Avenue, NW., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the 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:* Revision of currently approved collection.

(2) *Title of the Form/Collection:* COPS Count Survey.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form: COPS 301/01. Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: The COPS Count Project surveys agencies that have been awarded a Hiring and/or MORE grants from the COPS Office. Other: None. The information collected provides an accurate up to date account on the status of officers hired/redeployed. This enables COPS to assess the hiring/redeployment progress of awarded grants. This information is also utilized by the Grant Monitoring Division for pre-site preparation and the Grants Administration Division to further enhance the customer service component of the COPS Office. The Program Policy Support and Evaluation Division uses this information for evaluation of the programs funded by the COPS Office as well as the development of future programs.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated total of 11,000 respondents providing information on 17,450 grant awards. There will be 17,000 responses to the hiring survey, at .25 hours per response, for a total of 4,250 hours. There will be 450 responses to the MORE survey, at one hour per response, for a total of 450 hours.

(6) *An estimate of the additional public burden (in hours) associated with the collection:* The total estimated burden on the public is 4,700 hours annually.

If additional information is required contact: Brenda Dyer, Deputy Clearance Officer 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: April 17, 2003.

Brenda Dyer,

Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 03–9967 Filed 4–22–03; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services

FY 2003 Community Policing Discretionary Grants

AGENCY: Office of Community Oriented Policing Services, Department of Justice.

ACTION: Notice of availability.

SUMMARY: The Department of Justice Office of Community Oriented Policing Services (COPS) announces the availability of the COPS in Schools grant program, which will assist law enforcement agencies in hiring new, additional School Resource Officers (SROs) to engage in community policing in and around primary and secondary schools. This program provides an incentive for law enforcement agencies to build collaborative partnerships with the school community and to use community policing efforts to combat school violence. The School Resource Officer must devote at least 75% of their time to work in and around primary and secondary schools, in addition to the time that your agency was devoting in the absence of the COPS in Schools grant.

The COPS in Schools program provides a maximum Federal contribution of up to $125,000 per officer position over the three-year grant period, with any remaining costs to be paid with local funds. Officers paid with COPS in Schools funding can only be hired on or after the grant award start date. In addition, all jurisdictions that apply must demonstrate that they have primary law enforcement authority over the school(s) identified in their application and demonstrate their

inability to implement this project without Federal assistance.

DATES: There will be one application deadline for the COPS in Schools (CIS) program in 2003: June 13, 2003. All applications must be postmarked on or before the final deadline date of June 13, 2003, to be considered for funding. All grant awards are subject to the availability of funding. Previous editions of the COPS in Schools application developed prior to March 20, 2003, will not be accepted.

ADDRESSES: To obtain a copy of the CIS 2003 Application Kit please call the U.S. Department of Justice Response Center at 1.800.421.6770 or visit the COPS Web site at *http://www.cops.usdoj.gov.*

FOR FURTHER INFORMATION CONTACT: Please contact the U.S. Department of Justice Response Center at 1.800.421.6770 or your COPS Grant Program Specialist. Additional information on the COPS in Schools program and the COPS Office in general is also available on the COPS Web site at: *http://www.cops.usdoj.gov.*

Overview: The Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103–322) authorizes the Department of Justice to make grants to increase deployment of law enforcement officers to increase or enhance community policing in this nation. Many communities are discovering that trained, sworn law enforcement officers assigned to schools play an integral part in the development and/or enhancement of a comprehensive school safety plan. The presence of these officers provides schools with a direct link to local law enforcement agencies. School Resource Officers (SROs) may serve in a variety of roles including, but not limited to, that of a law enforcement officer/safety specialist, law-related educator, and problem solver/community liaison. These officers may teach programs such as crime prevention, substance abuse prevention, and gang resistance as well as monitor and assist troubled students through mentoring programs. The School Resource Officer(s) may also identify physical changes in the environment that may reduce crime in and around the schools, as well as assist in developing school policies which address criminal activity and school safety.

COPS in Schools funding must be used to hire new, additional School Resource Officers, over and above the number of sworn officers that your agency would fund with State or local funds in the absence of the grant (including other School Resource Officers). Your agency may not reduce its State, locally-funded or Bureau of Indian Affairs funded level of sworn officers (including other School Resource Officers or other sworn officers assigned to the schools) as a result of applying for or receiving COPS in Schools grant funding. For example, agencies currently employing one locally-funded School Resource Officer (or any other officer assigned to the school) that are awarded a School Resource Officer under the COPS in Schools program should thereafter employ two School Resource Officers (one locally-funded and one COPS-funded). COPS in Schools funding may be used to rehire sworn officers previously employed by your agency who have been laid off for financial reasons unrelated to the availability of the COPS in Schools grant, but your agency must obtain prior written approval from the COPS Office.

At the time of application, all applicants must agree to plan for the retention of each COPS-funded COPS in Schools position awarded at the conclusion of federal funding for at least one full local budget cycle with local, state or other non-COPS funding. The application must also include a Memorandum of Understanding (MOU), signed by the law enforcement executive and the appropriate school official(s), to document the roles and responsibilities to be undertaken by the law enforcement agency and the educational school partner(s) through this collaborative effort. The application must also include a Narrative Addendum to document that the School Resource Officer(s) will be assigned to work in and around primary or secondary schools and provide supporting documentation in the following areas: problem identification and justification, community policing strategies to be used by the officers, quality and level of commitment to the effort, and the link to community policing.

All agencies receiving awards through the COPS in Schools program are required to send the officers(s) deployed into the School Resource Officer position(s) as a result of this grant, and one individual designated as the School Representative under the grant program, to attend one COPS in Schools Training. The COPS Office will reimburse grantees for training, *per diem,* travel, and lodging costs for attendance of required participants up to a maximum of $1,200 per person attending. Should your agency receive a COPS in Schools grant, your agency will receive additional training information following notification of the grant award. The COPS in Schools training requirement must be completed prior to the end of your 36 months of grant funding for officer positions.

The Catalog of Federal Domestic Assistance (CFDA) reference for this program is 16.710.

Dated: April 10, 2003.

Carl Peed,

Director, Office of Community Oriented Policing Services.

[FR Doc. 03–9969 Filed 4–22–03; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF LABOR

Employment and Training Administration

Solicitation for Grant Applications (SGA) Grants for Small Faith-Based and Community-Based Non-Profit Organizations; Amendment

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice; amendment.

SUMMARY: The Employment and Training Administration published a document in the **Federal Register** of April 4, 2003, concerning the availability of grant funds for small faith-based and community-based non-profit organizations. The document is being amended.

EFFECTIVE DATES: April 23, 2003.

FOR FURTHER INFORMATION CONTACT: Linda Forman, Grants Management Specialist, Division of Federal Assistance, Fax (202) 693–2879.

Amendment to the Federal Register Notice dated: 68 FR, 16554; April 4, 2003: Part V. Eligible Applicants (Note: Small Faith-based and Community-based organizations that received direct grants from the Employment and Training Administration in 2002 are not eligible to apply for a grant under this SGA.) This prohibition, however, does not apply to sub-grantees which received funding from Intermediary grantees in 2002.

Signed at Washington, DC, this 18th day of April, 2003.

James W. Stockton,

Grant Officer.

[FR Doc. 03–10037 Filed 4–22–03; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of

existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Clintwood Elkhorn Mining Company

[Docket No. M–2003–018–C]

Clintwood Elkhorn Mining Company, PO Box 196, Hurley, Virginia 24620 has filed a petition to modify the application of 30 CFR 77.214(a) (Refuse piles; general) to its Clintwood Elkhorn III Mine (MSHA I.D. No. 44–03010) located in Buchanan County, Virginia. The petitioner requests a modification of the existing standard to allow construction of a refuse fill to cover abandoned mine openings in the Blair seam at the Clintwood Elkhorn Mining Company, Cedar Branch Refuse area, MSHA Site I.D. #1211VA50120–82. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Consol of Pennsylvania Coal Company

[Docket No. M–2003–024–C]

Consol of Pennsylvania Coal Company, CONSOL Energy, Inc., 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 77.516 (Electric wiring and equipment; installation and maintenance) to its Enlow Fork Mine (MSHA I.D. No. 36–07416) located in Greene County, Pennsylvania. The petitioner proposes to use an electric heater in a thermal flow reversal reactor to oxidize the methane in mine ventilation air. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Speed Mining, Inc.

[Docket No. M–2003–025–C]

Speed Mining, Inc., PO Box 1083, Beckley, West Virginia 25802 has filed a petition to modify the application of 30 CFR 75.1700 (Oil and gas wells) to its American Eagle Mine (MSHA I.D. No. 46–05437) located in Kanawha County, West Virginia. The petitioner proposes to drill out the oil and/or gas well as specified in its previous petition, docket number M–2001–041–C, and to pump cement to 50 feet above the eagle seam. The rest of the borehole will be left open to utilize degasification of methane out of the longwall gob, after the longwall has intersected the well. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

4. Dickenson-Russell Coal Company, LLC

[Docket No. M–2003–026–C]

Dickenson-Russell Coal Company, PO Box 573, Abingdon, Virginia 24212–0573 has filed a petition to modify the application of 30 CFR 77.215–2(b) (Refuse piles; reporting requirements) to its Roaring Fork #3 Mine (MSHA I.D. No. 44–06975) located in Dickenson County, Virginia. The petitioner requests a modification of the existing standard and review and approval of a report for the Roaring Fork #3 Scalped Rock Disposal Area, MSHA Site I.D. #1211–VA5–0203–01. The petitioner proposes to expand the Roaring Fork #3 Scalped Rock Disposal to place scalped rock over existing Upper Banner Mine workings. The petitioner states that all organic and topsoil material will be cleared from the proposed fill area prior to placement of scalped rock. The petitioner has listed specific procedures that would be followed prior to placement of scalped rock over mine workings. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to *comments@msha.gov,* or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2352, Arlington, Virginia 22209. All comments must be postmarked or received in that office on or before June 23, 2003. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 17th day of April 2003.

Marvin W. Nichols, Jr.,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 03–9968 Filed 4–22–03; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Ergonomics

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of meeting.

SUMMARY: The National Advisory Committee on Ergonomics (NACE) is part of the Secretary's comprehensive approach for reducing ergonomics-related injuries and illnesses in the workplace. The committee was convened for the first time on January 22, 2003. This notice schedules the second NACE meeting. The public is encouraged to attend.

DATES: The Committee will meet in Washington, DC on Tuesday, May 6 from 9:30 a.m. to 5 p.m. and Wednesday, May 7, 2003, from 8:30 a.m. until approximately 3 p.m.

ADDRESSES: The Committee will meet at the Washington Court Hotel, 525 New Jersey Avenue, NW., Washington, DC 20001; Telephone (202) 628–2100. Submit comments, views, or statements in response to this notice to MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, OSHA, U.S. Department of Labor, Room N–3655, 200 Constitution Avenue, NW., Washington, DC 20210. Phone: (202) 693–2144; Fax: (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: OSHA, Office of Public Affairs, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone: (202) 693–1999.

SUPPLEMENTARY INFORMATION: NACE was chartered for a two-year term on November 27, 2002, to provide advice and recommendations on ergonomic guidelines, research, and outreach and assistance. The committee met for the first time on January 22, 2003, in Washington, DC. This notice announces the second meeting of the committee, which will take place in Washington, DC on May 6–7, 2003.

I. Meeting Agenda

The second meeting of the National Advisory Committee on Ergonomics will continue discussions on OSHA's ergonomics program and related presentations. The Committee will set up working groups on Research, Guidelines, and Outreach and Assistance, and those working groups will meet on the afternoon of May 6. The working groups will report back to the full Committee on May 7th and lead discussions about their respective topics. Assistant Secretary John Henshaw will also address the Committee on the 7th.

II. Public Participation

Written data, views, or comments for consideration by NACE on the various agenda items listed above may be submitted, preferably with copies, to MaryAnn Garrahan at the address listed above. Submissions received by April 28, 2003 will be provided to the committee members for consideration. Requests to make oral presentations to

the Committee may be granted if time permits. Anyone wishing to make an oral presentation to the Committee should notify MaryAnn Garrahan at the address noted above. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Persons who request an oral presentation may be allowed to speak, as time permits, at the discretion of the Chair of the Advisory Committee.

Persons with disabilities requiring special accommodations should contact Veneta Chatman (telephone: (202) 693–1912; Fax (202) 693–1635) by April 28, 2003.

A transcript of the meeting will be available for inspection and copying in the OSHA Technical Data Center, Room N–2625 (see **ADDRESSES** section above) telephone: (202) 693–2350.

Authority: This notice was prepared under the direction of John L. Henshaw, Assistant Secretary for Occupational Safety and Health. It is issued under the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), GSA's FACA Regulations (41 CFR part 102–3), and DLMS 3 Chapter 1600.

Signed at Washington, DC, this 18th day of April, 2003.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 03–10170 Filed 4–21–03; 3:03 pm]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Wage and Hour Division

[Administrative Order No.]

Special Industry Committee for All Industries in American Samoa; Appointment; Convention; Hearing

1. Pursuant to sections 5 and 6(a)(3) of the Fair Labor Standards Act (FLSA) of 1938, as amended (29 U.S.C. 205, 206(a)(3)), and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004) and 29 CFR part 511, I hereby appoint special Industry Committee No. 25 for American Samoa.

2. Pursuant to sections 5, 6(a)(3) and 8 of the FLSA, as amended (29 U.S.C. 205, 206(a)(3), and 208), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR part 511, I hereby:

(a) Convene the above-appointed industry committee;

(b) Refer to the industry committee the question of the minimum rate or rates for all industries in American Samoa to be paid under section 6(a)(3) of the FLSA, as amended; and,

(c) Give notice of the hearing to be held by the committee at the time and place indicated.

The industry committee shall investigate conditions in such industries and the committee, or any authorized subcommittee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under the FLSA.

The committee shall meet in executive session to commence its investigation at 9:00 a.m. and begin its public hearing at 11:00 a.m. on June 16, 2003, in Pago Pago, American Samoa.

3. The rate or rates recommended by the committee shall not exceed the rate prescribed by section 6(a) or 6(b) of the FLSA, as amended by the Fair Labor Standards Act Amendments of 1996, of $5.15 an hour effective September 1, 1997.

The committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum rate or rates of wages for such industries that it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in such industries, and will not give any industry in American Samoa a competitive advantage over any industry in the United States outside of American Samoa.

4. Where the committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in the industry than may be determined for other employees in the industry, the committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR part 511.10, that will not substantially curtail employment in such classification and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within an industry, in making such classifications, and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following:

(a) Competitive conditions as affected by transportation, living and production costs;

(b) Wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and

(c) Wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

5. Prior to the hearing, the Administrator of the Wage and Hour Division, U.S. Department of Labor, shall prepare an economic report containing the information that has been assembled pertinent to the matters referred to the committee. Copies of this report may be obtained at the Office of the Governor, Pago Pago, American Samoa, and the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Upon request, the Wage and Hour Division will mail copies to interested persons who make a written request to the Wage and Hour Division. To facilitate mailing, such persons should make advance written request to the Wage and Hour Division. The committee will take official notice of the facts stated in this report. Parties, however, shall be afforded an opportunity to refute such facts by evidence received at the hearing.

6. The provisions of Title 29, Code of Federal Regulations, part 511, will govern the procedure of this industry committee. Copies of this part of the regulations will be available at the Office of the Governor, Pago Pago, American Samoa, and at the National Office of the Wage and Hour Division. The proceedings will be conducted in English, but in the event that a witness should wish to testify in Samoan, an interpreter will be provided. As a prerequisite to participation as a party, interested persons shall file six copies of a pre-hearing statement at the aforementioned Office of the Governor of American Samoa and six copies at the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Each pre-hearing statement shall contain the data specified in 29 CFR 511.8 of the regulations and shall be filed not later than May 16, 2003. If such statements are sent by airmail between American Samoa and the mainland, such filing shall be deemed timely if postmarked within the time provided.

Signed at Washington, DC this 17th day of April, 2003.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 03–9999 Filed 4–22–03; 8:45 am]

BILLING CODE 4510–27–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8027]

Decommissioning of Sequoyah Fuels Corporation Uranium Conversion Facility in Gore, Oklahoma: Notice of Intent To Conduct a Public Rescoping Meeting for Sequoyah Fuels Uranium Conversion Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Intent To Conduct a Public Rescoping Meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will conduct a meeting to discuss the status of the environmental review of decommissioning activities at the Sequoyah Fuels Corporation (SFC) facility near Gore, Oklahoma. The NRC recently determined that some of the waste at the site could be reclassified as byproduct material (see Supplementary Information). The SFC license was subsequently amended to authorize SFC's possession of the reclassified material. This license amendment had the effect of transferring the regulatory oversight of site decommissioning activities from subpart E of 10 CFR part 20 (license termination requirements) to Appendix A of 10 CFR part 40 (concerning uranium mills and tailings). These changes will be discussed at the public meeting. Additionally, the NRC will request public comments on the effects the changes may have on human health and the environment. Ample time will be provided for public comment at the meeting, although comments and questions will generally be limited to the remediation of the SFC facility. This meeting is part of the continuing process to keep affected stakeholders and the public informed of plans, schedules and important issues related to the remediation of the SFC facility.

DATE/TIME: Tuesday, May 13, 2003, from 7 to 10 p.m. The environmental portion of this meeting will start at approximately 8 p.m.

Place: Gore High School cafeteria, 1200 Highway 10N, Gore, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Rebecca Tadesse, Environmental and Performance Assessment Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T–7J8, Washington, DC 20555–0001, telephone: 301–415–6221; fax 301–415–5397; or e-mail *rxt@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC has been preparing an Environmental Impact Statement (EIS) for the decommissioning of the SFC uranium conversion facility in Gore, Oklahoma, and is holding this rescoping meeting to discuss changes to the EIS that may be needed due to the shift in regulatory oversight of the Sequoyah Fuels site corrective actions.

From 1970 until 1993, the SFC uranium conversion facility operated under the authority of an NRC license issued pursuant to 10 CFR part 40. The main process was the conversion of uranium oxide (yellowcake) to uranium hexafluoride. A second process, begun in 1987, consisted of the conversion of depleted uranium hexafluoride to uranium tetrafluoride.

Sequoyah Fuels supplied formal notice of its intent to seek license termination in accordance with 10 CFR 40.42(e) in a letter dated February 16, 1993. Based on available information, at least some of the identified waste and contamination at the site was known to exceed NRC's radiological criteria for decommissioning. Therefore, SFC was required to remediate the site to meet NRC's radiological criteria for license termination in 10 CFR part 20. In 1998, the company submitted to NRC a site characterization report and a study of remediation alternatives. A decommissioning plan was submitted in 1999. The remediation alternative proposed at that time by SFC was an on-site disposal cell.

In July 2002, the Commission concluded that some of the waste at the site could be reclassified as byproduct material, which is defined in Section 11e.(2) of the Atomic Energy Act as wastes from extraction or concentration of uranium or thorium from any ore processed for source material. Sequoyah Fuels submitted a request for a license amendment that would authorize its possession of this reclassified material and, on December 11, 2002, the NRC granted the license amendment request. Due to the reclassification of the waste, regulatory oversight of the decommissioning and remediation of the SFC facility was transferred from subpart E of 10 CFR part 20 (criteria for license termination) to Appendix A of 10 CFR part 40 (which includes criteria for the disposition of mill tailings or wastes). In accordance with part 40 requirements, SFC submitted a reclamation plan (January 2003) and will submit a groundwater corrective action plan. The remediation alternative proposed by SFC continues to be an on-site disposal cell, with an approach similar to that previously proposed under the license termination process. The option to take responsibility for long-term custodial care of the site would be provided first to the State of Oklahoma. Should the State decline this role, the Department of Energy (or other federal agency) would take custody of the site.

The NRC is preparing an EIS to determine whether SFC's proposal for reclamation of the site is acceptable. Information from the reclamation plan and the groundwater corrective action plan will be used to reassess the potential impacts of the proposal under part 40 regulations. The EIS will evaluate impacts such as effects on water resources, air quality, ecological resources, socioeconomic and community resources, human health, noise, and environmental justice. The EIS will also assess the proposed approach and alternatives, such as disposing of the contaminated material off-site in a licensed disposal facility. The NRC will consider the information and conclusions in the EIS in reaching its decision on the acceptability of the proposed approach.

Previous scoping meetings were held on October 15, 1995, and October 17, 2000. The NRC has issued summary reports of both previous scoping processes.

Dated at Rockville, Maryland, this 15th day of April 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. 03–10009 Filed 4–22–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 050–206]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for an Exemption From Certain Requirements in 10 CFR Part 20 Appendix G for the San Onofre Nuclear Generating Station, Unit 1, in San Diego County, CA

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a one-time exemption from certain requirements of 10 CFR part 20 (part 20) for the San Onofre Nuclear Generating Station, Unit 1, a permanently shutdown nuclear reactor facility. On March 7, 2003, Southern California Edison (the licensee) requested an exemption from the

requirements in part 20, Appendix G Section III.E to investigate and file a report to the NRC if a shipment of radioactive waste is not acknowledged by the intended recipient within 20 days after transfer to the shipper. The licensee made this request because, in this particular case, the transport time for the reactor vessel shipment is currently expected to take approximately 90 days to reach the disposal site. The NRC staff has prepared an Environmental Assessment (EA) in support of this action in accordance with the requirements of 10 CFR part 51. The conclusion of the EA is a Finding of No Significant Impact (FONSI) for the proposed action.

II. EA Summary

The proposed action would allow the licensee to transport the reactor vessel from the San Onofre Nuclear Generating Station to the Chem-Nuclear low-level radioactive waste disposal facility at Barnwell County, South Carolina. The travel time is estimated to be as long as 90 days. However, since the time of travel to reach the low-level waste burial site is longer than 20 days, part 20, Appendix G Section III.E would require the licensee to investigate, trace, and file a report with the NRC on the location of the reactor vessel 20 days into its approximate 90-day journey. The licensee has requested an exemption from these requirements because they are not meaningful in this instance.

The NRC has examined the licensee's proposed exemption request and concluded that it is procedural and administrative in nature. Additionally, there are no significant radiological environmental impacts associated with the proposed action; nor, are there any nonradiological environmental impacts associated with the proposed action.

III. Finding of No Significant Impact

NRC has prepared the EA (summarized above) in support of the licensee's application for an exemption request. On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

IV. Further Information

The EA and the documents related to this proposed action, including the request for the exemption, are available for inspection at NRC's Public Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. The ADAMS accession number for the licensee's March 7, 2003 exemption request letter is ML030730547. The ADAMS accession number for the staff's EA is ML031000319. Documents may also be examined, and/or copied for a fee, at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. Any questions with respect to this action should be referred to William Huffman, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, telephone (301) 415–1141.

Dated at Rockville, Maryland, this 16th day of April, 2003.

For the Nuclear Regulatory Commission.

Daniel M. Gillen,

Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 03–10011 Filed 4–22–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Request To Amend a License To Export Highly-Enriched Uranium

Pursuant to 10 CFR 110.70(b)(2) ''Public notice of receipt of an application,'' please take notice that the Nuclear Regulatory Commission has received the following request to amend an export license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the request to amend a license to export special nuclear material noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning this amendment request follows.

NRC EXPORT LICENSE APPLICATION

Name of applicant, date of application, date received, application No., Docket No.	Description of material		End use	Country of destination
	Material type	Total qty.		
Transnuclear, Inc. March 24, 2003; April 1, 2003; XSNM03171/04; 11005236.	Highly-Enriched Uranium (93.30%).	Additional 25.0 kg Uranium (23.325 kg U–235).	To fabricate targets for irradiation in the NRU Reactor to produce medical radioisotopes and to extend expiration date to 12/31/05.	Canada.

Dated this 16th day of April 2003 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Edward T. Baker,

Deputy Director, Office of International Programs.

[FR Doc. 03–10012 Filed 4–22–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Announcement of Pubic Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Announcement of a meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) is conducting a rulemaking to amend its regulations for medical use of byproduct material to address issues related to training and experience associated with recognition of Specialty Boards by the NRC. To aid in that process, the NRC is holding a public meeting to solicit input from

representatives of professional specialty boards and other interested parties that may be useful in drafting a proposed rule.

DATE/TIME/LOCATION: The meeting will be held from 8:30 a.m. to 12 p.m. on Tuesday, May 20, 2003, at NRC headquarters, One White Flint North, Room 1F16, 11545 Rockville Pike, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Roger W. Broseus, Office of Nuclear Material Safety and Safeguards, Division of Industrial and Medical Nuclear Safety, Rulemaking and Guidance Branch, Mail Stop T9–C24, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: (301) 415–7608; E-mail: *RWB@nrc.gov*. All persons planning to attend the meeting should contact Ms. Jayne McCausland in advance at (301) 415–6219 or by E-mail at *JMM2@nrc.gov* to facilitate entrance into the building on the day of the meeting. If calling from outside of the Washington, DC metropolitan area, Ms. McCausland can be reached at 1–800–368–5642, extension 6219. Individuals who need accommodations under the Americans with Disabilities Act should also provide advanced notification to Ms. McCausland. Attendees should arrive early to allow time to clear security check points.

SUPPLEMENTARY INFORMATION: The NRC is conducting a rulemaking to revise 10 CFR part 35, ''Medical Use of Byproduct Material,'' to address training and experience issues associated with recognition of specialty boards by the NRC. The issues were identified by the NRC's Advisory Committee on the Medical Use of Isotopes (ACMUI) during a briefing of the Commissioners on February 19, 2002, during which they expressed concern there could be potential shortages of authorized individuals without changes to the rule. At the time, the NRC was preparing to publish a final comprehensive revision to 10 CFR part 35. Under provisions of 10 CFR part 35, the use of byproduct material in medicine must be done by or under the supervision of authorized users who meet specific training and experience (T&E) criteria. Likewise, T&E requirements are also specified for an individual serving as Radiation Safety Officer (RSO), Authorized Nuclear Pharmacist (ANP), or Authorized Medical Physicist (AMP). One method of satisfying the T&E requirements specified in the draft-final revision of 10 CFR part 35 was for individuals to be certified by a specialty board ''recognized'' by the NRC. To be ''recognized,'' a board's certification process must satisfy the specific requirements for T&E in 10 CFR part 35. However, the ACMUI noted that most boards did not meet the requirements for recognition by the NRC. The ACMUI recommended that the NRC remedy the situation to avoid a shortage of authorized individuals and RSOs. As a result, the Commission decided to retain the original subpart J in 10 CFR 35 to provide a short-term solution. Subpart J was set to be effective for 2 years from the effective date of the final revision to 10 CFR part 35, *i.e.*, until October 2004, thereby continuing the recognition of specialty boards in Subpart J. The Commission instructed the NRC staff to work towards a resolution of the problem during this period of time. Working in consultation with the ACMUI, the staff presented three options for addressing the issues related to recognition of specialty boards in a commission paper dated October 30, 2002. The issues mentioned above, including options for rulemaking, are discussed in more depth in a Commission paper entitled ''Options for Addressing Part 35 Training and Experience Issues Associated With Recognition of Specialty Boards by NRC'' (SECY–02–0194).

The Commission, in a Staff Requirements Memo (SRM) dated February 12, 2003 (SRM SECY–0–2–0194), directed the NRC staff to proceed with rulemaking related to recognition of specialty boards and the T&E requirements. In the SRM, the NRC staff was directed to move directly to preparing a proposed rule, followed by a final rule, with the expectation that a final rule would be published while subpart J of 10 CFR part 35 remains in effect, *i.e.*, October 24, 2004. This SRM and the associated Commission Paper (SECY–02–0194) referenced above, are available on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/commission*.

In addition, the Commission SRM directed the staff to address the following: revise 10 CFR part 35 based on recommendations of the ACMUI (discussed as part of option 3 in SECY–02–0194); list boards recognized by the NRC on it's Web site rather than in the rule; retain in the rule a requirement for a preceptor statement, with the clarifications that a statement of general clinical competency is not required, but, that the attestation should include a statement that the candidate has the knowledge to fulfill the duties of the position for which certification is sought; and, preserve this form of attestation for both pathways of demonstrating adequacy of T&E. The Commission also indicated that, because of the important role of board certification, there should be a clear regulatory determination that all boards, both new and existing, are to meet relevant criteria. Staff was directed to discuss implementing procedures for additions to, or deletion from, the listing of recognized specialty boards.

The purpose of the meeting, to be conducted on May 20, 2003, is to solicit input from stakeholders in the specialty board community, and other interested parties, on the issues discussed above as input to the staff development of a proposed rule. The meeting will be open to observation by the public. The proposed rule will be published for public comment in the **Federal Register** at a later date and posted on the NRC's RuleForum, located on the web at *http://ruleforum.llnl.gov/*.

Dated at Rockville, Maryland, this 16th day of April, 2003.

For the Nuclear Regulatory Commission.

Gary S. Janosko,

Acting Chief, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 03–10010 Filed 4–22–03; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Proposed Information Collection Requests

AGENCY: Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget (OMB Control Number 0420–0533).

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C., Chapter 35), the Peace Corps has submitted to the Office of Management and Budget (OMB) a request for approval of information collections, OMB Control Number 0420–0533, the Peace Corps Crisis Corps Volunteer Application Form. This is a renewal of an active information collection. The purpose of this information collection is necessary to recruit qualified Volunteers to serve in the Peace Corps' Crisis Corps Program. The information provided in the application is used by Crisis Corps staff to perform initial screening for potential candidates for specific Crisis Corps assignments. The purpose of this notice is to allow for public comment on whether the proposed collection of information is necessary for the proper performance of the functions of the Peace Corps, including whether their information will have practical use; 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; ways to enhance the quality, utility and the clarity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology. A copy of the information collection may be obtained from Mr. Dan Sullivan, Director of the Crisis Corps, Peace Corps, 1111 20th Street, NW., Room 7305, Washington, DC 20526. Mr. Sullivan may be contacted by telephone at 202–692–2250. Comments on the form should also be addressed to the attention of Mr. Sullivan and should be received on or before June 23, 2003.

Information Collection Abstract

Title: Peace Corps' Crisis Corps Volunteer Application Form.

Need for and Use of this Information: The Peace Corps' Crisis Corps Volunteer Application Form is completed by previous Peace Corps Volunteers; known as Returned Peace Corps Volunteers (RPCVs). The RPCVs apply to serve in the Crisis Corps after successfully completing their Peace Corps service. The Peace Corps' Crisis Corps Application is completed by applicants for Crisis Corps assignments to provide basic information concerning technical and language skills, and availability for Crisis Corps assignments. The application form from the RPCVs is used to perform initial screenings for potential candidates for specific Crisis Corps assignments. The Crisis Corps is an exciting Peace Corps Program that utilizes RPCVs to help communities overseas recover and rebuild in the aftermath of natural disasters and humanitarian crises. There are no other means of obtaining the required data. The Crisis Corps is working toward an electronic application; this version is not available at this time. The Crisis Corps Program fulfills the first and second goals of the Peace Corps as required by Congressional legislation.

Respondents: Returned Peace Corps Volunteers (RPCVs).

Respondent's Obligation to Reply: Voluntary.

Burden on the Public:

a. Annual reporting burden: 54 hours.

b. Annual record keeping burden: 0 hours.

c. Estimated average burden per response: 5 minutes.

d. Frequency of response: one time.

e. Estimated number of likely respondents: 650.

f. Estimated cost to respondents: $1.97.

At this time, responses will be returned by mail.

This notice is issued in Washington, DC on April 11, 2003.

Gopal Khanna,

Chief Information Officer.

[FR Doc. 03–10005 Filed 4–22–03; 8:45 am]

BILLING CODE 6051–01–M

PEACE CORPS

Proposed Information Collection Requests

AGENCY: Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget (OMB Control Number 0420–0001).

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Peace Corps has submitted to the Office of Management and Budget (OMB) a request for approval of an information collection, OMB Control Number 0420–0001, the National Agency Questionnaire for Peace Corps Volunteer Background Investigation. This is a renewal of an active information collection. The purpose of this information collection is necessary to perform a background investigation of people in the Peace Corps Volunteer programs. The Peace Corps Volunteer Background Investigation is used to obtain information from Federal sources about Peace Corps applicants who meet the minimum qualifications for service and have been invited to train for specific programs in host countries overseas. Information provided by the investigation will be used by the Peace Corps' Office of Placement in order to make a final determination as to an applicant's/trainee's suitability for service. The purpose of this notice is to allow for public comment on whether the proposed collection of information is necessary for the proper performance of the functions of the Peace Corps, including whether their information will have practical use; 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; ways to enhance the quality, utility and the clarity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

A copy of the information collection may be obtained from Ms. Mada McGill, Peace Corps, Volunteer Recruitment and Selection CHOPS, 1111 20th Street, NW., Room 6402, Washington, DC 20526. Ms. McGill may be contacted by telephone at 202–692–1886. Comments on the form should also be addressed to the attention of Ms. McGill and should be received on or before June 23, 2003.

Information Collection Abstract

Title: National Agency Questionnaire for Peace Corps Volunteer Background Investigation.

Need for and Use of this Information: The National Agency Check Questionnaire for Peace Corps Volunteer Background Investigation is necessary to screen information from Federal sources about Peace Corps applicants who mee the minimum qualifications for service. Information provided by the investigation will be used by the Peace Corps' Office of Placement in order to make a final determination as to an applicant's/trainee's suitability for service. The National Agency Check Questionnaire for Peace Corps Volunteer Background Investigation supports the first goal of the Peace Corps as required by Congressional legislation.

Respondents: Potential Volunteers and Trainees.

Respondents Obligation to Reply: Voluntary.

Burden of the Public:

a. Annual reporting burden: 2,500 hours.

b. Annual record keeping burden: 1,360 hours.

c. Estimated average burden per response: 15 minutes.

d. Frequency of response: one time.

e. Estimated number of likely respondents: 10,000.

f. Estimated costs to respondents: $4.59.

At this time, responses will be returned by mail.

This notice is issued in Washington, DC on April 17, 2003.

Gopal Khanna,

Chief Information Officer.

[FR Doc. 03–10006 Filed 4–22–03; 8:45 am]

BILLING CODE 6051–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of The Goodyear Tire & Rubber Company To Withdraw From Listing and Registration its Common Stock, No Par Value, and Preferred Stock Purchase Rights From the Pacific Exchange, Inc. File No. 1–01927

April 17, 2003.

The Goodyear Tire & Rubber Company, an Ohio 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, no par value, and preferred stock purchase rights (''Securities''), from listing and registration on the Pacific Exchange, Inc. (''PCX'' or ''Exchange'').

The Board of Directors (''Board'') of the Issuer approved a resolution on February 4, 2003 to withdraw its Securities from listing on the Exchange. In making its decision to delist its Securities from the PCX the Issuer notes that various listing fees and other expenses could be avoided if the Company were to delist its Securities. The Issuer states that the Securities continue to be listed on the New York Stock Exchange, Inc.

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 Securities 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 May 9, 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. 03–10013 Filed 4–22–03; 8:45 am]

BILLING CODE 8010–01–P

[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 of the Goodyear Tire & Rubber Company To Withdraw its Common Stock, No Par Value, and Preferred Stock Purchase Rights From Listing and Registration on the Chicago Stock Exchange, Inc. File No. 1–01927

April 17, 2003.

The Goodyear Tire & Rubber Company, an Ohio 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, no par value, and Preferred Stock Purchase Rights (''Securities''), from listing and registration on the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'').

The Board of Directors (''Board'') of the Issuer approved a resolution on February 4, 2003 to withdraw its Securities from listing on the Exchange. In making its decision to delist its Securities from the CHX the Issuer notes that various listing fees and other expenses could be avoided if the Company were to delist its Securities. The Issuer states that the Securities continue to be listed on the New York Stock Exchange, Inc.

The Issuer stated in its application that it has complied with the rules of the CHX that govern the removal of securities from listing and registration on the Exchange. 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 May 9, 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. 03–10014 Filed 4–22–03; 8:45 am]

BILLING CODE 8010–01–P

[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).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster # 3486]

State of New York

Westchester County and the contiguous counties of Bronx, Orange, Putnam and Rockland in the State of New York; Fairfield County in the State of Connecticut; and Bergen County in the State of New Jersey constitute a disaster area as a result of a fire that occurred on March 14, 2003. The fire destroyed several homes in the Nodine Hill section of the City of Yonkers. Applications for loans for physical damage may be filed until the close of business on June 16, 2003 and for economic injury until the close of business on January 16, 2004 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.875
Homeowners without credit available elsewhere	2.937
Businesses with credit available elsewhere	6.378
Businesses and Non-Profit Organizations without credit available elsewhere	3.189
Others (Including Non-Profit Organizations) with credit available elsewhere	5.500

	Percent
For Economic Injury:	
Businesses and Small Agricultural Cooperatives without credit available elsewhere	3.189

The number assigned to this disaster for physical damage is 348605 for New York; 348705 for Connecticut; and 348805 for New Jersey. The number assigned to this disaster for economic injury is 9U8700 for New York; 9U8800 for Connecticut; and 9U8900 for New Jersey.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 16, 2003.

Hector V. Barreto,

Administrator.

[FR Doc. 03–10003 Filed 4–22–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster # 3489]

State of New York

Westchester County and the contiguous counties of Bronx, Orange, Putnam and Rockland in the State of New York; Fairfield County in the State of Connecticut; and Bergen County in the State of New Jersey constitute a disaster area as a result of a fire that occurred on March 16, 2003. The fire destroyed apartments at the Wakefield Towers apartment complex in the City of Yonkers. Applications for loans for physical damage may be filed until the close of business on June 16, 2003 and for economic injury until the close of business on January 16, 2004 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.875
Homeowners without credit available elsewhere	2.937
Businesses with credit available elsewhere	6.378
Businesses and Non-Profit Organizations without credit available elsewhere	3.189
Others (Including Non-Profit Organizations) with credit available elsewhere	5.500
For Economic Injury:	
Businesses and Small Agricultural Cooperatives without credit available elsewhere	3.189

The number assigned to this disaster for physical damage is 348905 for New York; 349005 for Connecticut; and 349105 for New Jersey. The number assigned to this disaster for economic injury is 9U9000 for New York; 9U9100 for Connecticut; and 9U9200 for New Jersey.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 16, 2003.

Hector V. Barreto,

Administrator.

[FR Doc. 03–10004 Filed 4–22–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4339]

Bureau of Democracy, Human Rights and Labor Request for Grant Proposals: Human Rights and Democratization Initiatives in Central Asia

SUMMARY: The Office for the Promotion of Human Rights and Democracy of the Bureau of Democracy, Human Rights and Labor (DRL/PHD) announces an open competition for one or more assistance awards. Organizations may submit grant proposals that address programs and activities that foster democracy, human rights, press freedoms, women's political development and the rule of law in countries with a significant Muslim population in Central Asia (to include Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan), and where such programs and activities would be important to United States efforts to respond to, deter, or prevent acts of international terrorism.

Awards are contingent upon the availability of Fiscal Year 2003 funds. Approximately $3,000,000 may be available under the Economic Support Funds through the Bureau's Human Rights and Democracy Fund (HRDF) for projects that address Bureau objectives in predominantly Muslim countries in this region. The Bureau anticipates awarding between 3–12 grants in amounts of $250,000—$1,000,000.

Background: The Human Rights and Democracy Fund (HRDF) supports innovative, cutting-edge programs which uphold democratic principles, support and strengthen democratic institutions, promote human rights, and build civil society in countries and regions of the world that are geo-strategically important to the U.S. HRDF funds projects that have an immediate impact but that have potential for continued funding beyond HRDF resources. HRDF projects must not duplicate or simply add to efforts by other entities.

Additional Information: The Bureau of Democracy Human Rights and Labor has identified the following issues as priorities. While competitive proposals must meet basic HRDF criteria, they are not restricted to these issues:

1. Rule of law, with emphasis on support for an independent judiciary, legal defense assistance and defense lawyers;
2. Independent media, with emphasis on comprehensive support including ''one-stop'' resource centers to provide legal assistance, advocacy, training and direct operational support;
3. Human rights, especially advocacy training and monitoring and reporting on law enforcement abuses; for Uzbekistan, programs designed to implement the recommendations contained in the recent report by the U.N. Special Rapporteur on Torture;
4. Civil society, including capacity-building of democracy-advocacy NGOs that promote government accountability; for Turkmenistan, such support could be in the form of extraterritorial activities; for Tajikistan, such support could be focused on women's leadership
5. Elections, with emphasis on support for democratically-oriented political parties as well as reform of electoral processes and legislation

Project Criteria

- Project implementation should begin no earlier than late summer 2003.
- Projects should not exceed two years in duration. Shorter projects with more immediate outcomes may receive preference.
- U.S-based or exchange projects are discouraged.
- Projects that have a strong academic or research focus will not be highly considered. DRL will not fund health, technology, environmental, or scientific projects unless they have an explicit democracy, human rights, or rule of law component. Conferences likewise will not be highly considered.
- Projects should include a follow-on plan that extends beyond the grant period ensuring that Bureau-supported programs are not isolated events.

In order to avoid the duplication of activities and programs, proposals should also indicate knowledge of

similar projects being conducted in the region and how the submitted proposal will complement them.

Applicant/Organization Criteria

Organizations applying for a grant should meet the following criteria:

- Be a U.S. public or private non-profit organization meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3). Applicants must submit proof of its non-profit status in the application at the time of submission.
- Have demonstrated experience administering successful projects in the region in which it is proposing to administer a project.
- Have existing, or the capacity to develop, active partnerships with in-country organization(s).

Note: Organizations are welcome to submit more than one proposal, but should know that DRL wishes to reach out to as many different organizations as possible with its limited funds.

Budget Guidelines

Please refer to the Proposal Submission Instructions (PSI) for complete budget guidelines and formatting instructions.

Deadline for Proposals

All proposals must be received at the Bureau of Democracy, Human Rights and Labor by 5 p.m. Eastern Standard Time (EST) on Wednesday, May 21, 2003. Please refer to the PSI for specific delivery instructions.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the PSI. 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.

Review Criteria

Eligible applications will be competitively reviewed according to the criteria stated below. Further explanation of these criteria is included in the PSI. These criteria are not rank ordered and all carry equal weight in the proposal evaluation: quality of the program idea; program planning and ability to achieve program objectives; multiplier effect/impact; institution's record/ability/capacity; cost-effectiveness.

FOR FURTHER INFORMATION CONTACT: The Office for the Promotion of Human Rights and Democracy of the Bureau of Democracy, Human Rights and Labor (DRL/PHD). Please specify Cathy Stump 202–647–3322 on all inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP 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 Solicitation Package includes this RFP plus the Proposal Submission Instructions (PSI) which contains detailed award criteria, specific budget instructions, and standard guidelines for proposal preparation. The entire RFP and PSI may be downloaded from the HRDF section on the Bureau's Web site at *http://www.state.gov/g/drl/.*

Notice

The terms and conditions published in this RFP 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 RFP does not constitute an award commitment on the part of the Government. The Bureau 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. Final technical authority for assistance awards resides with the Office of Acquisition Management's Grants Officer.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: April 17, 2003.

Lorne W. Craner,

Assistant Secretary for Democracy, Human Rights and Labor, Department of State.

[FR Doc. 03–10051 Filed 4–22–03; 8:45 am]

BILLING CODE 4710–18–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular for Onboard Recording of Data Communications in Crash-Survivable Memory

AGENCY: Federal Aviation Administration (FAA), (DOT).

ACTION: Notice of availability and requests for public comment.

SUMMARY: This notice announces the availability of and request comments on a revised proposed Advisory Circular (AC) for onboard data recording. The proposed AC establishes an acceptable means, but not the only means, to provide airborne capability for onboard recording of voice and data link messages in crash-survivable memory.

DATES: We must receive comments on the proposed AC on or before May 20, 2003.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, Avionics Systems Branch, AIR–130, 470 L'Enfant Plaza, SW., Washington, DC 20025. ATTN. Mr. Gregory Frye. Or, deliver comments to the address listed above to Suite 4102.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Frye, Avionics Systems Branch, AIR–130, Aircraft Certification Service, Aircraft Engineering Division, AIR–130, 470 L'Enfant Plaza, SW., Suite 4102, Washington, DC 20025; Telephone (202) 385–4630; Fax (202) 385–4651. E-mail comments to: *Gregory.E.Frye@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the proposed AC by submitting such written data, views, or arguments to the above specified address. You may examine comments we have received on the proposed AC before and after the comment closing date, in the FAA's office located at 470 L'Enfant Plaza, SW., Suite 4102, Washington, DC 20025, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director, Aircraft Certification Service, will consider all communications received on or before the closing date before issuing the final AC.

Background

The rapid expansion of International Civil Aviation Organization (ICAO) Communications, Navigation, Surveillance/Air Traffic Management (CNS/ATM) concepts have resulted in new technologies which make judicious

use of data communication applications for transference of safety of flight information. In addition, aircraft operators have long realized the benefit of the use of data link communication applications for conveyance of Aeronautical Operational Control (AOC) and Aeronautical Communications (AAC).

Fundamental accident/incident investigative needs require sufficient information to accurately reconstruct an accident/incident scenario. Investigative authorities have identified shortcomings in the ability of aircraft systems to record information needed to determine the cause of accidents and other reportable occurrences. One of the specific shortcomings is the lack of airborne capacity for onboard recording of data link messages in crash-survivable memory. Thus, recording data communication information in crash-survivable memory provides investigative authorities a necessary and useful tool for post accident/incident reconstruction.

How To Obtain Copies

A copy of the proposed AC may be obtained via the Internet, at *http://www.airweb.faa.gov/rgl* or by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.**

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

Susan J. M. Cabler,

Deputy Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 03–10049 Filed 4–22–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

High Density Traffic Airports; slot Allocation and Transfer Method

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of waiver of the slot usage requirement.

SUMMARY: This action announces a waiver of the minimum slot usage requirement for slots and slot exemptions at the three high density traffic airports for the period March 19, 2003 through October 25, 2003.

EFFECTIVE DATE: April 18, 2003.

FOR FURTHER INFORMATION CONTACT: Lorelei Peter, Operations and Air Traffic Law Branch, Regulations Division, Office of the Chief Counsel, AGC–220, Federal Aviation Administration, 800 Independence Avenues, SW., Washington, DC 20591; telephone number 202–267–3134.

SUPPLEMENTARY INFORMATION:

Background

The High Density Traffic Airports Rule, or ''High Density rule,'' 14 CFR part 93, subpart K, was promulgated in 1968 to reduce delays at five congested airports: John F. Kennedy International Airport (JFK), LaGuardia, O'Hare International Airport (O'Hare), Ronald Reagan Washington National airport (Reagan National) and Newark International Airport (33 FR 17896; December 3, 1968). The regulation limits the number of instrument flight rule (IFR) operations at each airport, during certain hours of the day. It provides for the allocation to carriers of operational authority, in the form of a ''slot,'' for each IFR takeoff or landing during a specific 30- or 60-minute period. The restrictions at Newark were lifted in the early 1970s. The restrictions at O'Hare were lifted in 2002.

Statement of Policy

The regulations governing slots and slot allocation provide that any slot not utilized at least 80 percent of the time over a 2-month period shall be recalled by the FAA (14 CFR 93.227(a)). Additionally, paragraph (j) of that section provides that the Chief Counsel may waive the slot usage requirement in the event of a highly unusual and unpredictable condition that is beyond the control of the slot holder and exists for more than nine days (14 CFR 93.227(j)). These two provisions are also applicable to slot exemptions.

Over the last several weeks, the FAA has received inquiries from several domestic and foreign carriers concerning applicability of the slot usage requirements in view of the military action in Iraq and its impact on the airline industry. By letter dated March 28, 2003, the Air Transport Association of America (ATA) requested that the FAA waive the minimum slot usage requirements for the period March 19, 2003 through December 31, 2003. Midway Airlines endorsed this request. A number of countries with slot controlled airports have suspended their respective usage requirements for part or all of the period from mid-March through the end of the summer scheduling season, October 2003.

ATA and individual carriers state that many carriers have taken measures to adjust both domestic and international flight schedules in response to decrease passenger demand and increased operating costs. These measure include the suspension or cancellation of some flights, especially those in markets where a carrier operates multiple services, changes in frequency, changes to equipment type on certain routes, and relaxation of certain fare restrictions in order to stimulate passenger bookings. These changes were implemented by certain carriers on a system-wide basis and not limited to operations at the high density traffic airports. Many of these changes to date are on a month-to-month basis as an immediate reaction to conditions following the onset of the war in Iraq. It is likely, however, that carriers will need to continue to adjust capacity to meet demand over the next few months and this may preclude the full utilization of allocated slots and slot exemptions for a number of carriers.

The FAA finds that the current operating conditions described above meet the criteria for granting a waiver from the minimum slot usage requirement set forth in 14 CFR Section 93.227(a). The FAA will waive the minimum usage requirement for all slots and slot exemptions at the high density traffic airports for the period of March 19, 2003 through April 30, 2003. This covers the initial period following the beginning of the military action in Iraq when many carriers cancelled or adjusted flights. Carriers are not required to provide the FAA with advance notice of underutilized slots or slot exemption during that period.

In addition, the FAA will waive the minimum usage requirement for all slots and slot exemptions for the period of May 1, 2003 through October 25, 2003, provided that the carrier temporarily returns to the FAA any slot or slot exemption that will not be used by the carrier. Thus, if a carrier has not scheduled a slot or slot exemption for at least 80 percent usage, then the carrier must return the slot in advance for the portion of time that it will not be using the slot, i.e. for entire summer season, or for two weeks, or for certain frequencies, etc. or the usage requirement will apply. Any carrier that chooses to temporarily return slots or slot exemptions to the FAA between now and October 25, 2003, may do so without jeopardizing the permanent loss of the slots or slot exemptions.

In the bi-monthly slot usage reports required by 14 CFR 93.227(i), slot holders/operators should indicate whether a flight was scheduled to operate in an allocated slot or slot exemption and indicate the flight actually operated. Any slots or slot exemptions covered by his waiver should not be listed as flown unless a flight actually operated.

There may be some carriers seeking to add service or make changes to scheduled flight times that affect their

slot holdings at an airport. Carriers are reminded that the slot transfer provisions may be used to transfer unused slots to other carriers and that slots may be returned to the FAA for temporary reallocation. We encourage carriers to use existing regulatory mechanisms rather than rely on this waiver. Slot exemptions cannot be sold, leased or otherwise transferred. If carriers determine that they will not use their slot exemptions, they are encouraged to return them to the FAA so that they may be reallocated to other eligible carriers. The FAA intends to use temporarily returned slots to accommodate short-term requests for additional slots or schedule adjustments. In order to meet as many of those needs as possible, the FAA requests that carriers returning slots or slot exemptions under this waiver provide as much advance notice as practical.

Also, the FAA notes that international slots are not subject to the same minimum slot usage requirements as domestic slots. The slot regulations provide that international slots must be returned to the FAA if they will not be used for more than a 2-week period. (*See* CFR 93.217(3)). Historic allocation priority for subsequent scheduling seasons is granted based on actual operations. For the period of March 19, 2003 through October 25, 2003, the FAA will treat as operated any international slot allocated during that period provided that it was either actually operated by the carrier or returned to the FAA for the period it will not be used. Carriers meeting these conditions will be granted historic status for the corresponding winter 2003 and summer 2004 scheduling seasons.

Lastly, the FAA will continue to monitor operations at the high density traffic airports during the period of this waiver. Carriers are advised to contact the FAA on an individual basis under the provisions of 14 CFR 93.227(j) if further relief is necessary beyond the duration of this policy.

Issued in Washington, DC on April 18, 2003.

James W. Whitlow,

Deputy Chief Counsel.

[FR Doc. 03–10032 Filed 4–18–03; 12:39 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Tupelo Regional Airport, Tupelo, MS

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 Tupelo Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 23, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Jackson Airports District Office, 100 West Cross Street, Jackson, MS 39208.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Terry Anderson, Executive Director of the Tupelo Regional Airport Authority at the following address: Mr. Terry L. Anderson, Executive Director, Tupelo Airport Authority, 2704 West Jackson Street, Tupelo, MS 38801.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Tupelo Regional Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: David Shumate, Program Manager, Jackson Airports District Office, 100 West Cross Street, Jackson, MS 39208, (601) 664–9882. 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 Tupelo Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 16, 2003, the FAA determined that the application to impose and use the revenue from a PFC submitted by Tupelo Regional Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 11, 2003.

The following is a brief overview of the application.

PFC Application No.: 03–03–C–00–TUP.

Level of the proposed PFC: $4.50.

Proposed charge effective date: January 1, 2004.

Proposed charge expiration date: January 1, 2013.

Total estimated net PFC revenue: $750,000.

Brief description of proposed project: Airport Terminal Expansion, Renovation and Security Enhancement.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Tupelo Regional Airport Authority.

Issued in Jackson, Mississippi, on April 16, 2003.

Wayne Atkinson,

Manager, Jackson Airports District Office, Southern Region.

[FR Doc. 03–10048 Filed 4–22–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Jackson, Harrison and Hancock, Greene, Stone, and Pearl River Counties, Mississippi

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The Federal Highway Administration is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for the CSX Railroad Relocation Study in the above referenced counties in Mississippi.

FOR FURTHER INFORMATION CONTACT: Mr. Cecil Vick, Realty Officer/Environmental Coordinator, and Mr. Dickie Walters, Environmental Protection Specialist, Federal Highway Administration, 666 North Street, Suite 105, Jackson, MS 39202–3199, Telephone: (601) 965–4217. Contacts at

the State and local level, respectively are: Mr. Claiborne Barnwell, Environmental/Location Division Engineer, Mississippi Department of Transportation, P.O. Box 1850, Jackson, MS, 39215–1850, telephone: (601) 359–7920; and Mr. Ricky Lee, District 6 Engineer, Mississippi Department of Transportation, P.O. Box 551, Hattiesburg, MS, 39403–0551, telephone (601) 544–6511.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Mississippi Department of Transportation (MDOT) will prepare an Environmental Impact Statement (EIS) for the relocation study through the six counties of the Mississippi Gulf Coast—Jackson, Harrison, Hancock, Greene, Stone, and Pearl River counties.

The relocated CSX Railroad will be situated within the six Mississippi coastal counties noted above. The project has logical termini at both the eastern and western termini of the State of Mississippi where the connection will occur with the CSX railroad into the states of Alabama and Louisiana. The purpose of the CSX Study is three-fold: Identify the best feasible corridor for relocation of the CSX Railroad in Mississippi; obtain the necessary environmental clearances; and demonstrate the applicability of remote sensing technologies to environmental analysis for transportation planning projects and decision making. Of paramount importance to this effort is the public participation process. The relocated CSX Railroad will enter Mississippi at the eastern terminus in Jackson County and extend generally in a western alignment through Harrison County into Jackson County exiting the state at the western terminus into Louisiana. Alternatives under consideration include (1) taking no action and (2) various build alternatives.

The FHWA and MDOT are seeking input as a part of the scoping process to assist in determining and clarifying issues relative to this project. Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A formal scoping meeting with Federal, State, and local agencies, and other interested parties has been held.

Coordination will be continued with appropriate Federal, State, and local agencies, Native American tribes and private organizations and citizens who have previously expressed or are known to have interest in this proposal. Numerous public involvement meetings will be held, a newsletter will be developed, and a Web site will be created to keep the public informed. A local project office will be opened in Gulfport, Mississippi. The draft EIS will be available for public and agency review and comment prior to the official public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Andrew H. Hughes,

Division Administrator, Jackson, Mississippi.

[FR Doc. 03–9985 Filed 4–22–03; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement (VISA)/Joint Planning Advisory Group (JPAG)

AGENCY: Maritime Administration, DOT.

ACTION: Synopsis of April 3, 2003 meeting with VISA participants.

The VISA program requires that a notice of the time, place, and nature of each JPAG meeting be published in the **Federal Register**. The program also requires that a list of VISA participants be periodically published in the **Federal Register**. The full text of the VISA program, including these requirements, is published in 68 FR 8800–8808, dated February 25, 2003.

On April 3, 2003, the Maritime Administration (MARAD) and the U.S. Transportation Command (USTRANSCOM) co-hosted a meeting of the VISA JPAG at Ft. Eustis, Virginia.

Meeting attendance was by invitation only, due to the nature of the information discussed and the need for a government-issued security clearance. Of the 52 U.S.-flag carrier corporate participants enrolled in the VISA program at the time of the meeting, 19 companies participated in the meeting. In addition, representatives from the Maritime Administration (MARAD), the Department of Defense, and maritime labor attended the meeting.

MG Ann E. Dunwoody opened the meeting with a welcome to all attendees. She was followed by LtGen Gary Hughey, the USTRANSCOM Deputy Commander, and Captain William G. Schubert, Maritime Administrator, who provided participants with an overview of the meeting. The JPAG meeting included updates on: (1) Current operations; (2) sustainment operations; (3) redeployment operations; and (4) CBR-D training.

As of April 1, 2003, the following commercial U.S.-flag vessel operators were enrolled in the VISA program with MARAD: America Cargo Transport, Inc.; American Automar, Inc.; American International Car Carrier, Inc.; American President Lines, Ltd.; American Roll-On Roll-Off Carrier, LLC; American Ship Management, L.L.C.; Bay Towing Corporation; Beyel Brothers Inc.; Central Gulf Lines, Inc.; Coastal Transportation, Inc.; Columbia Coastal Transport, LLC; Crowley Liner Services, Inc.; Crowley Marine Services, Inc.; Delta Towing; E-Ships, Inc.; Farrell Lines Incorporated; First American Bulk Carrier Corp.; First Ocean Bulk Carrier-I, LLC; First Ocean Bulk Carrier-II, LLC; First Ocean Bulk Carrier-III, LLC; Horizon Lines, LLC, Foss Maritime Company; Liberty Shipping Group Limited Partnership; Lockwood Brothers, Inc.; Lykes Lines Limited, LLC; Lynden Incorporated; Maersk Line, Limited; Matson Navigation Company, Inc.; Maybank Navigation Company, LLC; McAllister Towing and Transportation Co., Inc.; Moby Marine Corporation; Odyssea Shipping Line LLC; OSG Car Carriers, Inc.; Patriot Shipping, L.L.C.; RR &VO L.L.C.; Resolve Towing & Salvage, Inc.; Samson Tug & Barge Company, Inc.; Sea Star Line, LLC; SeaTac Marine Services, LLC; Sealift Inc.; Signet Maritime Corporation; STEA Corporation; Superior Marine Services, Inc.; TECO Ocean Shipping; Totem Ocean Trailer Express, Inc.; Trailer Bridge, Inc.; TransAtlantic Lines LLC; Troika International, Ltd.; U.S. Ship Management, Inc.; Van Ommeren Shipping (USA) LLC; Waterman Steamship Corporation; and Weeks Marine, Inc.

FOR FURTHER INFORMATION CONTACT: Mr. Taylor E. Jones II, Director, Office of Sealift Support, (202) 366–2323.

By Order of the Maritime Administrator.

Dated: April 18, 2003.

Joel C. Richard,

Secretary.

[FR Doc. 03–10036 Filed 4–22–03; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–12005; Notice 2]

International Truck and Engine Corp.; Denial of Application for Inconsequential Noncompliance

The National Highway Traffic Safety Administration (NHTSA) is denying a petition from International Truck and Engine Corporation (International) of Fort Wayne, Indiana, for exemption from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 for a noncompliance with 49 CFR 571.104, Federal Motor Vehicle Safety Standard (FMVSS) No. 104, ''Windshield Wiping and Washing Systems.'' International applied for the exemption under 49 U.S.C. 30118(d) and 49 U.S.C. 30120(h) and petitioned NHTSA for a decision that the noncompliance is inconsequential to motor vehicle safety. We published a notice of receipt of the International application on April 11, 2002, allowing for a 30-day comment period (67 FR 17757). There were no comments submitted.

International discovered the noncompliance in 7,630 medium duty trucks it manufactured between October 24, 2000, and October 22, 2001. In those vehicles, if the windshield washer system is filled with water and frozen, a fuse in the windshield washer electrical circuit can blow when the washer system is actuated, rendering the system inoperative. The system thus fails to meet a performance requirement in FMVSS No. 104 which, by reference to SAE Recommended Practice J942, ''Passenger Car Windshield Washer Systems,'' requires the washer system to withstand operation in a completely frozen state.

We are denying this petition because International has not adequately demonstrated that the noncompliance does not increase the risk that an operator will experience a safety problem, in this case a non-functional washer system, that FMVSS No. 104 is intended to protect against. In determining inconsequentiality, the agency traditionally has considered whether a noncompliance is likely to increase the risk that occupants will experience a safety problem that a requirement was established to address (Cosco, Inc., Denial of Application for Decision of Inconsequential Noncompliance, 64 FR 29408 (June 1, 1999) (NHTSA–98–4033–2)). In the case of the noncomplying International trucks, we believe that a vehicle operator is at increased risk of experiencing reduced visibility as a result of a nonfunctional windshield washer system.

Background

The pertinent performance requirement for windshield washer systems is paragraph S4.2.2 of FMVSS No. 104 which states in relevant part, ''Each multipurpose passenger vehicle, truck, and bus shall have a windshield washing system that meets the requirements of SAE Recommended Practice J942, November 1965.* * *'' SAE J942 includes paragraph 3.2, System Strength, which states, ''The windshield washer system must be capable of withstanding the loads induced when the nozzles are blocked and tested in accordance with test procedures established in paragraph 4.2.'' Paragraph 4.2.2(b) of SAE J942 states the following: ''The system shall be filled with water and frozen for 4 hr. and then actuated repeatedly for a 1 minute period.''

In International's tests of the washer system in the subject trucks, when the washer system was operated in a water-filled and frozen condition in accordance with the requirement above, a five-ampere rated electrical fuse blew one-quarter second after washer switch actuation, interrupting the washer pump circuit. The system thus failed to comply with S4.2.2 of FMVSS No. 104.

Discussion

In its application for inconsequential noncompliance, International made the following points:

- The intent of section 3.2, ''System Strength'' in SAE J942 is ''that the system should withstand the test parameters specified without inducing permanent damage to the electrical system components of the washer system'' such as a cracked fluid reservoir or fluid lines, damaged spray nozzles, or overloaded activation switch, washer pump motor, or connecting wires. International stated that those components are effectively protected from permanent damage in the non-complying International vehicles by the five-ampere fuse.
- The system passes all other specified J942 requirements and, if a ten-ampere fuse is installed in the washer circuit, it passes the ''System Strength'' requirement for operation under frozen conditions. However, a five-ampere fuse does a better job of protecting the system components.
- There is very little likelihood of the washer fluid freezing in an actual operating environment because International's recommended fluid mixture yields a freezing point of −48 degrees C (−54 degrees F).
- With a vehicle population of 19,880 comprising various models in operation for 13 months, International has had ''no reported field problems'' and only 16 warranty claims related to the washer system, none of which were due to frozen fluid in the system.

In response, we would first point out that neither FMVSS 104 nor J942 contains any limitation concerning ''permanent damage'' to the system when subjected to the applicable test procedures. Paragraph 3.2 of J942 states only that the system ''shall be capable of withstanding the loads induced'' when it is tested in accordance with the procedures in section 4 of J942. We believe a blown fuse in the washer circuit indicates that the system was unable to withstand the loads induced in the frozen condition and is no less a failure than if the washer switch or pump motor had been damaged. We disagree with International's understanding of the requirement in paragraph 3.2 of SAE J942, *i.e.*, that it is intended to proscribe ''permanent damage'' to the washer system electrical components including the electric pump motor, the actuation switch, and the connecting wires. We believe that, in order to comply with this requirement, the washer system must remain fully functional after being frozen.

International also stated that the washer system passes the compliance test if a ten-ampere fuse is installed, but the system is better protected with the five-ampere fuse. However, by this logic, it would appear that one of the other system components besides the fuse may be at risk of failure, which is the type of problem that FMVSS 104 test procedures are intended to guard against. On one hand, if the five-ampere fuse is too weak, then it would appear that International merely neglected to specify a sufficiently high fuse rating in the design of the washer system. On the other hand, if installing a higher-rated fuse puts other system electrical components at risk of being overloaded, then it is evident that the system as a whole is not robust enough to sustain frozen system operation in the required manner. The fact that the fuse fails before one of the other circuit components such as the pump motor or switch is not a redeeming factor with regard to compliance. In either case, the system does not meet the performance requirement.

With respect to availability of the washer system, we do not agree with International's assertion that a frozen reservoir ''makes the availability of the

system during vehicle operation no greater than the situation with a blown fuse.'' If the system becomes disabled due to being frozen but also has a blown fuse, then a vehicle operator would be left without the use of a functioning washer system even after the system is thawed by engine heat or by the addition of the correct fluid mixture. For example, an operator in a harsh winter environment who attempts to activate the washer system might find that it is frozen and wait for it to thaw out, which it would be likely to do once the vehicle was warmed up. In a noncomplying truck, the washer system would still be inoperable even after thawing out. Furthermore, an operator who had neglected to maintain the washer fluid mixture might be alerted to the frozen condition of the fluid by the failure of the system to spray when actuated. The operator might then be able to correct the fluid mixture and, in a complying vehicle, continue driving with an operational washer system.

International asserts that the freezing point of the washer system when the recommended fluid mixture is used is so low that the system is very unlikely to freeze under foreseeable conditions. While this may be true, vehicles are unlikely to have exactly the recommended mixture and could, in fact, have a diluted mixture with a higher freezing point. We do not see any compelling reason to question whether the frozen-system requirement in FMVSS No. 104 has a realistic basis, and International did not provide any supporting information in that regard. Also, the fact that the standard specifies filling and testing the system using only water does not mean that systems filled with only water are anticipated in the actual operating environment. As a practical matter, it is easier to freeze the system for the purpose of a compliance test when it contains just water instead of a mixture with a lower freezing point.

If International believes that washer systems should be tested with an appropriate washer fluid mixture, or that the frozen washer system test is unreasonable because of the low likelihood of washer fluid freezing in actual use, the company is entitled to present relevant safety data, research, and related information to NHTSA in the form of a petition for rulemaking to amend the current safety standard.

In consideration of the foregoing, NHTSA has decided that the applicant has not met its burden of persuasion, and that the noncompliance may have an adverse effect on the safety of the subject vehicles. Accordingly, International's application is denied and the company must provide notification of the noncompliance as required by 49 U.S.C. 30118. Also, International must provide a free remedy for the noncompliance to each first purchaser of an affected vehicle bought within ten calendar years of the time notice is given, as required by 49 U.S.C. 30120(g).

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: April 17, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–10053 Filed 4–22–03; 8:45 am]

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Federal Register

Wednesday,
April 23, 2003

Part II

Department of the Treasury

Fiscal Service

31 CFR Part 240

Indorsement and Payment of Checks Drawn on the United States Treasury; Proposed Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 240

RIN 1510–AA45

Indorsement and Payment of Checks Drawn on the United States Treasury

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Proposed rule.

SUMMARY: The Department of the Treasury (Treasury), Financial Management Service (FMS),[1] is proposing revisions to its regulations governing the indorsement and payment of checks drawn on the United States Treasury. This notice of proposed rulemaking (NPRM II) supersedes the NPRM issued on May 30, 1997 (NPRM I). The regulations provide how checks may be indorsed, and remedies when checks are lost or stolen, and then subsequently negotiated by someone other than the intended payee. In instances where losses occur, such as when a check bearing a fraudulent indorsement is paid, the regulations provide for the allocation of losses between the Government and indorsers of the check. The regulations also provide information on how Treasury will collect debts owed by banks and other indorsers when they fail to pay claims arising under the terms of the regulation.

DATES: Comments must be submitted on or before June 23, 2003.

ADDRESSES: All comments concerning NPRM II should be addressed to Ronald Brooks, Senior Program Analyst, Financial Processing Division, Financial Management Service, Prince Georges Center II Building, 3700 East-West Highway, Room 725-D, Hyattsville, MD 20782. Comments also may be emailed to: *Ronald.Brooks@fms.treas.gov*.

FOR FURTHER INFORMATION CONTACT: Ronald Brooks, (202) 874–7573 (Senior Program Analyst, Financial Processing Division); Randall S. Lewis, (202) 874–6877 (Principal Attorney).

SUPPLEMENTARY INFORMATION: Regulations governing the indorsement and payment of checks drawn on the U.S. Treasury are codified at 31 CFR part 240 (Part 240). Many entities are involved in the Federal check disbursing system: Treasury and non-Treasury offices that issue Treasury checks, banks in the Federal Reserve System that receive Treasury checks and provide payment information to Treasury, and Treasury offices that receive payment information from the Federal Reserve System and reconcile that information with issuance information provided by the numerous Treasury and non-Treasury disbursing offices. For years, Treasury has been working to find a balance between the demands of this Federal system that relies on the coordination of many parties and the desire of the financial community to operate within a framework that is similar for commercial checks and Treasury checks. Issues that have continued to generate debate over time include:

- The amount of time Treasury has to complete first examination of Treasury checks and to decline payment of a check; and
- The allocation of loss when Treasury makes final payment on a check prior to the determination that a check presented for payment is a counterfeit check, or bears a forged or unauthorized drawer's signature.

NPRM II seeks to strike a balance between these competing interests by setting a date certain by which all Treasury checks are deemed paid while allocating the risk of loss to financial institutions only in those instances where reasonable actions, if properly taken by financial institutions, could have prevented a loss to the United States Treasury.

Background

Treasury disburses payments for a majority of civilian Federal agencies. Other Federal agencies, such as the military departments, have their own disbursing officers, but also use Treasury check stock to make payments. Regardless of the agency which disburses a payment, if the payment is made in the form of a Treasury check, the check must be presented to the Department of the Treasury for payment. Conditional payment, referred to in this proposed rule as provisional credit, is effected by a credit to a reserve or other account with the Federal Reserve Bank through which the check is presented for payment. *See* 31 CFR 240.5(c) of NPRM II.

On occasion, problems occur during this process because of attempts to defraud Treasury either by interjecting counterfeit checks into the system or by altering authentic Treasury checks. In other instances, Treasury checks do not reach, or are lost by or stolen from, the intended payees, and are indorsed by persons not entitled to them and paid over those forged or unauthorized indorsements. Part 240 defines the rules by which Treasury checks are to be indorsed and paid, and assigns the responsibilities and associated liabilities among parties when the system fails to prevent such frauds from occurring. In doing so, the provisions in Part 240 describe the circumstances in which a claim arises—*e.g.*, when a debt is owed by a presenting bank or other indorser of a Treasury check to the United States—and how such claims may be collected, including limitations on the government's ability to collect.

How claims arise. Federal law, not the commercial rules evidenced in the Uniform Commercial Code as adopted by individual States, applies to Treasury checks. Treasury checks are governed by Federal statutes, FMS regulations promulgated in Part 240 pursuant to 5 U.S.C. 301, 31 U.S.C. 321, and 31 U.S.C. 3328(e), and, where the foregoing are silent, Federal common law. *See Clearfield Trust Co.* v. *United States,* 318 U.S.C. 363 (1943). NPRM II outlines the responsibilities of the parties involved in the indorsement and payment of Treasury checks. For example, under § 240.4 of NPRM II, payees or subsequent indorsers of Treasury checks must present such checks for payment within one year of a check's issuance. Similarly, under § 240.5 of NPRM II, if Treasury is going to decline payment on a check bearing a material defect or alteration or forged or unauthorized drawer's signature, it must do so within a reasonable amount of time not to exceed 90 days. Claims arise when checks are presented to Treasury for payment in violation of the requirements in this Part, such as when presenting banks or other indorsers breach the presentment guarantees in § 240.3 of NPRM II. For example, if a bank accepts a check bearing a forged indorsement and that check is presented for payment, the presenting bank and any indorsers of that check will have breached the guarantee of indorsement in this rule, and a claim will arise in the amount of the check in favor of the Government.

How claims are collected. The provisions of 31 U.S.C. 3711 require the head of each Federal agency to try to collect claims arising from the activities of the agency. Because of Treasury's role in issuing and making payment on Treasury checks, Treasury historically has accepted responsibility for the collection of claims arising from the requirements of Part 240. Moreover, Treasury's role in this collection activity is expressly referred to in 31 U.S.C. 3343.

In trying to collect claims arising under Part 240, Treasury first will

[1] FMS is the bureau within Treasury that is charged with implementing Treasury's authority in this area. The terms Treasury and FMS are used interchangeably in this proposed rule.

attempt to collect such claims, referred to in this Part as ''reclamation debts,'' using the reclamation procedures codified in §§ 240.7 and 240.8 of NPRM II. Under those procedures, Treasury will attempt to collect by means of a demand letter, referred to as a ''REQUEST FOR REFUND (CHECK RECLAMATION).'' If the presenting bank or other indorser from whom Treasury seeks payment, referred to in this Part as the ''reclamation debtor,'' fails to refund the amount of the check in response to the demand letters, Treasury will attempt to collect by means of offset in accordance with § 240.9 of NPRM II. By employing offset, Treasury will seek to collect the debt owed by reducing, or ''offsetting,'' by the amount of the debt, any payment due to the reclamation debtor by another Federal agency. If Treasury still is unable to collect the full amount of the debt, Treasury will collect the amount through the Treasury Check Offset (TCO) procedures codified at § 240.10 of NPRM II. TCO is a collection mechanism, specifically authorized under 31 U.S.C. 3712(e), which allows FMS to collect reclamation debts by directing a Federal Reserve Bank to withhold credit from a debtor bank presenting Treasury checks for ultimate charge to the account of the United States Treasury. By presenting Treasury checks for payment, presenting banks are deemed to authorize this offset.

Previous NPRMs. NPRM I, published May 30, 1997 (62 FR 29314), which was a re-issuance of a notice originally published on September 21, 1995 (60 FR 48940), addressed four issues: (1) Setting the time for FMS to conduct its first examination of Treasury checks at 150 days; (2) superseding Federal common law by apportioning the risk of loss on checks bearing a forged drawer's signature, including counterfeit checks, to presenting banks; (3) authorizing Federal Reserve Banks to intercept checks payable to deceased payees and return them unpaid to depositary banks; and (4) making definitions in Part 240 consistent with other FMS regulations.

FMS did not require commenters to resubmit comments originally submitted in response to the notice published on September 21, 1995; all comments received in response to that notice were treated as responses to NPRM I. FMS received a total of 24 comments on NPRM I. Eight responses were received from individual banks, three from banking associations, two from clearinghouse associations, five from credit unions and credit union organizations, and one from a Federal Reserve Bank. Five of the respondents provided comments in response to both notices.

On May 24, 2002, FMS issued an Interim Rule (67 FR 36517) (hereinafter ''Interim Rule'') which revised 31 CFR Part 240 to incorporate procedures relating to TCO, a new debt collection tool established by the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104–134, Title III, section 31001(d)(4). Under that authority, Treasury is authorized to collect certain debts, owed to the Treasury by financial institutions presenting Treasury checks to a Federal Reserve Bank, by directing Federal Reserve Banks to withhold credit from such presenting banks.

NPRM II addresses all of the issues discussed in NPRM I, as well as issues not previously raised. It also incorporates the substance of the Interim Rule. In particular, NPRM II codifies existing procedures whereby presenting banks can administratively protest a Treasury decision to decline final payment of a particular check. The proposal also clarifies that the reclamation protest procedures at § 240.8, must be exhausted before a civil suit may be filed against Treasury. Under § 10(c) of the Administrative Procedure Act, 5 U.S.C. 704, an agency action is not judicially reviewable until it becomes final. The Supreme Court, in interpreting this section, has held that an agency action is final, and therefore subject to judicial review, unless the agency rule expressly requires exhaustion of administrative remedies as a prerequisite to judicial review. *See, e.g., Darby* v. *Cisneros,* 509 U.S. 137 (1993). Treasury is adding language that makes it clear that reclamation decisions are not final until the protest procedures have been exhausted.

In addition, NPRM II expands the use of powers of attorney as a basis for negotiating Treasury checks by allowing them to be used in more instances, and by eliminating the requirement that a specific Treasury power of attorney form be used. Finally, NPRM II clarifies Treasury regulations relating to the charging of administrative costs, penalties and interest when payments of reclamations are not submitted timely.

Given the passage of time since the issuance of NPRM I and the comprehensive nature of the revisions included in NPRM II, comments provided in response to NPRM I, including those provided in response to the NPRM issued on September 21, 1995, will not be considered as comments submitted in response to NPRM II. Those wishing to comment on NPRM II must provide written comments by the date indicated.

Structure of Part 240

This revision alters the structure of Part 240 by: (1) Moving existing provisions relating to limitations on payments from §§ 240.3(a) and (b) to § 240.4, and §§ 240.3(c) through (e) to § 240.5; (2) moving existing provisions relating to guarantees of indorsement from § 240.5 to § 240.3; (3) deleting existing rules governing the release of original checks from § 240.10, and substituting new provisions governing TCO at § 240.10; (4) moving existing rules governing reclamations of amounts of paid checks from § 240.6 to § 240.7; (5) moving rules governing reclamation demand and protest from § 240.7 to § 240.8; (6) moving rules governing offset from § 240.8 to § 240.9; (7) adding new rules at § 240.6 governing declination protests; (8) moving existing rules governing the processing of checks from § 240.9 to § 240.11; (9) moving existing rules relating to the indorsement of checks by payees from §§ 240.11(a) through (e) to § 240.12, and specific rules regarding Social Security checks from § 240.11(f) to § 240.14; (10) redesignating rules currently promulgated at §§ 240.12 through 240.15 to §§ 240.13 through 240.16; (11) adding new rules relating to the lack of authority for financial institutions to shift liability at § 240.17; (12) adding new provisions relating to implementing instructions at § 240.18; and (13) deleting appendix A to part 240 (Standard Forms for Power of Attorney and Their Application).

Summary of Substantive Changes

1. *Time for first examination.* As stated in the current Part 240, Treasury has the usual right of a drawee to examine checks presented for payment and to refuse payment of any check. The current rule states that Treasury has a reasonable amount of time to make such examination.

As indicated in the preamble to NPRM I, Treasury has tried to develop a policy which allows itself the time necessary to perform the functions required to complete first examination, while meeting the desire of the financial community for a date certain after which all Treasury payments are final. In NPRM I, Treasury attempted to address the concerns of the financial community by defining the term ''first examination'' and providing a date certain after which all payments would be deemed paid. NPRM I set that date at 150 days from the date that a check is presented to a Federal Reserve Bank for payment.

Comments on this issue varied widely among the respondents. Six responses

recommended that FMS adopt the commercial rule of midnight of the next business day, while five responses recommended maintaining the current ''reasonable time'' standard. Of those suggesting alternatives to the 150 day time frame, four respondents recommended 30 days and one suggested 90 days. One respondent recommended an approach incorporating both a ''reasonable time'' standard and a date certain after which payment would be final regardless of case-specific problems. This rule adopts the latter approach.

Under the provisions of § 240.5 of NPRM II, Treasury retains the right of a drawee to examine checks presented for payment, to reconcile checks, and, when appropriate, to direct a Federal Reserve Bank to decline payment of any check. Treasury shall have a reasonable amount of time to complete first examination. All payments are provisional until first examination is completed, and, as stated in the definition of provisional credit at § 240.2 of NPRM II, may be reversed by Treasury until the completion of first examination or final payment is deemed made pursuant to § 240.5(d) of NPRM II. As provided in the definition of first examination at § 240.2 of NPRM II, the amount of time necessary to complete first examination will be a function of the procedures deemed appropriate in specific circumstances to determine whether a check presented for payment bears a material defect or alteration or a forged drawer's signature. Under § 240.5(d) of NPRM II, if Treasury has not declined payment within 90 days after the check has been processed for payment by a Federal Reserve Processing Center, Treasury will be deemed to have made final payment on the check.

While FMS understands the desire of the financial community to operate under a single set of rules that are applicable to commercial checks and Treasury checks, adopting a midnight of the next business day standard is not operationally feasible. As stated previously, Treasury is not the only Federal agency to issue Treasury checks. Treasury issues payments for a majority of Executive Branch agencies, but some agencies, including the military departments and the U.S. Marshal's Office, also have statutory authority to issue Treasury checks. Some other agencies have a delegation of authority from the Secretary of the Treasury to issue Treasury checks. It is not possible for Treasury to receive check issue records from all non-Treasury disbursing officials in time for Treasury to take even the most rudimentary steps to establish the authenticity and integrity of all such Treasury checks before midnight of the next business day. The volume of checks issued (*e.g.*, 362 million checks in fiscal year 2001) and the number of agencies involved necessitate a standard different from that applied to commercial checks.

Further, the ''midnight rule'' was specifically rejected by the Ninth Circuit Court of Appeals in *Bank of America* v. *Federal Reserve Bank of San Francisco*, 349 F.2d 565 (9th Cir. 1965), *cert. denied,* 382 U.S. 984 (1966). In that case, the Court determined that Treasury regulations stating that checks are deemed paid ''upon first examination'' necessarily implied that ''the Treasurer is to have sufficient time within which to conduct first examination.'' The Court also concluded that first examination included examination for forged indorsements, forged signature of the drawer, raised amounts, and other material defects. Current Treasury regulations codified at Part 240 and these proposed revisions to those regulations ensure that Treasury has sufficient time to make such examinations.

2. *Apportionment of risk.* Since the issuance of NPRM I in 1997, Treasury has continued to improve internal processes, as well as coordination with the various non-Treasury entities that issue Treasury checks, to improve the efficiency of the check payment system. As a result, Treasury is able to complete first examination on most checks in less than 30 days, and has been able to reduce the amount of time necessary to complete first examination in problem cases from 150 days to 90 days. However, Treasury also understands that despite everyone's best efforts, there will be instances where Treasury will be unable to complete first examination within the 90 day time frame, and losses will arise. In NPRM I, Treasury clearly stated that if a material defect or alteration were discovered after final payment had been made, Treasury would reclaim in instances involving forged drawers' signatures, double forgeries (checks bearing both a forged drawer's signature and a forged indorsement), and counterfeit checks. NPRM II takes a different approach. In this proposed rule, Treasury will reclaim after final payment only in those instances where an indorser has breached one of the presentment guarantees listed in § 240.3. As a consequence, this proposed rule allocates losses in specific circumstances as follows:

a. *Checks bearing a forged or unauthorized indorsement.* Treasury will reclaim on a check if it determines, after final payment, that a check was negotiated over a forged or unauthorized indorsement. In such cases, the basis for Treasury's claim would be a breach of the guarantee of indorsements at 31 CFR 240.3(a).

b. *Checks that have been altered.* Treasury will reclaim on a check if it determines, after final payment, that a check has been materially altered. In such cases, the basis for Treasury's claim would be a breach of the guarantee of alterations at 31 CFR 240.3(b).

c. *Checks bearing a forged drawer's signature.* After final payment, Treasury will not reclaim on a check bearing a forged drawer's signature unless there is evidence that the reclamation debtor had knowledge that the drawer's signature was forged or unauthorized. In such instances, the basis for Treasury's claim would be a breach of the guarantee of drawer's signature at 31 CFR 240.3(c). This provision also applies to a check bearing both a forged drawer's signature and a forged indorsement.

d. *Counterfeit checks.* After final payment, Treasury will not reclaim on a counterfeit check unless the reclamation debtor has failed to make all reasonable efforts to ensure that a check is an authentic Treasury check and not a counterfeit check. Guidance regarding specific attributes, such as the security features on a check, that financial institutions must verify in order to ensure that they have made all reasonable efforts to ensure the authenticity of a Treasury check, will be provided by Treasury or on Treasury's behalf. In instances where Treasury determines that a reclamation debtor has failed to make all such reasonable efforts, the basis for Treasury's claim would be a breach of the guarantee of authenticity at 31 CFR 240.3(d).

In allocating the risk of loss in this manner, Treasury is cognizant of relevant case law in this area. In particular, the holding in *United States* v. *Chase National Bank*, 252 U.S. 485 (1920), which relied on the English case of *Price* v. *Neal*, 97 Eng. Rep. 871, 3 Burr. 1354 (1762), was that, after final payment, Treasury generally cannot recover on a Treasury check bearing the forged signature of a drawer, including those situations when such a check also bears a forged indorsement on the back (often referred to as a double forgery). In this proposed rule, Treasury does not alter the allocation of risk for losses involving forged drawers' signatures on authentic Treasury checks. However, this proposed rule does supersede the holding in *Chase National Bank* to the extent that the opinion applies to

counterfeit checks. In Treasury's view, this is a logical distinction which places the ultimate risk of loss on the party with the best opportunity to discover a counterfeit. As noted by the Court in *Chase National Bank*, when an authentic Treasury check bearing a forged drawer's signature is paid, it is proper to allocate the loss to the drawee bank because it is incumbent on the drawee to know the drawer's signature, and there can be no recovery from an innocent holder not chargeable with fault. In the context of an authentic Treasury check bearing a forged drawer's signature, this proposed rule recognizes that, absent actual knowledge that the drawer's signature is forged, a depositary bank generally has no basis for questioning the drawer's signature. That is not the case with counterfeit checks. Treasury checks include numerous security features which can be used to quickly detect most counterfeit checks. One example is the watermark. Every authentic Treasury check carries a watermark and includes, on the back, the statement, ''*WARNING*—DO NOT CASH CHECK WITHOUT NOTING WATERMARK * * * HOLD TO LIGHT TO VERIFY WATERMARK.''

Despite such security features, some counterfeit checks will go undetected during first examination and will be deemed paid under § 240.5(d) of NPRM II. Only in those situations where the depositary bank fails to act with reasonable care when accepting a Treasury check will the risk of loss be shifted from the Government to the depositary bank. An example would be a situation where the depositary bank ignores the warning to verify the watermark. Treasury will reclaim on a counterfeit check if it determines that the counterfeit check does not have a watermark.

In recognition of the United States Court of Federal Claims decision in *ABN AMRO Bank, N.V.* v. *United States*, 34 Fed. Cl. 126 (1995), which held that Treasury had failed to act in a manner which made evident an intent to modify by regulation the holdings of *United States* v. *Chase National Bank* and *Price* v. *Neal*, NPRM II explicitly supercedes common law to the extent that such law applies to counterfeit checks. Treasury is cognizant of relevant United States Supreme Court precedent interpreting the common law in this area and, by this regulation, removes any ambiguity regarding Treasury having supplanted that common law. In so acting, Treasury relies on the Secretary's general rulemaking authority, 31 U.S.C. 321, as well as the specific statutory authority of the Secretary to prescribe regulations governing the payment of drafts, found at 31 U.S.C. 3328(e).

3. *Deceased payee check intercepts.* As noted in NPRM I, where a payment has been issued and negotiated after a payee's death, Treasury historically has recovered funds associated with payment from financial institutions through the reclamation process. In response to concerns raised by financial institutions that reclamation actions generally occur only after final payment has been made and most, if not all, of the funds have been withdrawn from depositor accounts, Treasury, working with Federal Reserve Banks, developed procedures whereby checks can be intercepted when a payment has been issued and negotiated after a payee's death. Under these procedures, the intercept will take place in situations where an agency has advised Treasury via an unavailable check cancellation (UCC) that the payee is deceased and not entitled to the payment. Checks associated with such payments will be intercepted upon presentment to a Federal Reserve Processing Center. The check will be stamped ''Not Negotiable Payee Deceased/Not Entitled Questions—Contact Authorizing Agency'' and will be returned unpaid before financial institutions are required under Federal Reserve Regulation CC (12 CFR Part 229) to make funds permanently available to their depositors. The provisions in § 240.14(c) of the proposed rule codify procedures that already have been implemented and which should result in fewer payments to non-entitled payees. If the UCC is received after the check has been presented for payment, Treasury will recover the funds associated with the payment from financial institutions through the reclamation process.

4. *Declination protests.* The current Part 240 does not include provisions relating to protests of Treasury decisions to decline payment of a check. NPRM II includes such procedures at § 240.6 (Declination protest). Treasury's promulgation of declination protest procedures serves two purposes: (1) Providing public notice of the opportunity for a presenting bank to protest a declination; and (2) establishing an administrative adjudication process for declination protests. The new protest provisions for declinations formalize procedures which allow a presenting bank to protest a declination and, under certain circumstances, to receive back the original amount of the check issued by a United States disbursing officer.

In order to receive back such amounts, a presenting bank must be able to provide sufficient, credible evidence that the factual basis for the declination was in error.

For example, if Treasury declined payment of a check upon determining during first examination that the amount of the check had been altered from $400 to $4,000, the presenting bank, to succeed in its protest, would have to provide sufficient, credible evidence that the check, in fact, was issued in the amount of $4,000. Consistent with the recent decision by the United States Court of Appeals for the Federal Circuit in *Casa de Cambio Comdiv S.A. de C.V.* v. *U.S.*, 291 F.3d 1356 (Fed. Cir. 2002), § 240.6 of NPRM II also clarifies that protests may be filed only by the presenting bank, and not by other indorsers on the check that is the subject of the declination.

5. *Use of debt collection tools in the collection of reclamation debts.*

a. *Collection of reclamation debts.* Existing rules, codified at § 240.6, provide the framework for the collection process for amounts relating to checks that, after final payment by Treasury, are determined to have been negotiated over a forged or unauthorized indorsement or contain a material defect or alteration. Under the current rule, the reclamation process includes the following debt collection tools: (1) Issuance of a demand letter, referred to as a ''REQUEST FOR REFUND (CHECK RECLAMATION)''; (2) collection of interest, late payment penalties and administrative collection costs; (3) follow-up on the initial demand with at least three monthly interest billing statements including outstanding balances and notices of subsequent collection actions; (4) referral to other Federal agencies for administrative offset; and (5) any other actions necessary to protect the interests of the United States should debt collection tools (1)–(4) fail. Since the issuance of the Interim Rule on May 24, 2002, the current rule has also included provisions relating to TCO, a debt collection tool authorized by the DCIA. The DCIA authorizes Treasury to collect amounts owed to the Treasury by presenting banks, *i.e.*, financial institutions presenting Treasury checks to the Federal Reserve for payment by the United States. Under TCO, Treasury will direct a Federal Reserve Bank to withhold credit from such presenting banks and, instead, use the funds to satisfy a presenting bank's debt to the Treasury. In accordance with the DCIA, Treasury will collect by means of TCO only if efforts to collect by means of Reclamation and Administrative Offset are unsuccessful. This proposal revises the current provisions in a number of ways.

First, the rules currently promulgated at § 240.6 are redesignated as § 240.7. These rules still include the basic provisions governing Treasury's initial demand for payment.

Second, NPRM II moves the TCO provisions from § 240.9 to § 240.10.

Third, NPRM II revises the Administrative Offset provisions (redesignated as § 240.9) to incorporate DCIA provisions requiring United States Disbursing Officers to offset debts referred by creditor agencies against payments to the debtors which a certifying agency has certified for payment to the Disbursing Officer.

Fourth, redesignated § 240.7 is revised to clarify that reclamations are due on the reclamation date. This continues current Treasury policy which is not stated explicitly in the current regulation. This section is revised further to clarify the types of charges that will be added to the reclamation amount, when those amounts will accrue, and how the amounts will be calculated. NPRM II clarifies that Treasury policy is to add such costs in accordance with 31 U.S.C. 3717, and the Federal Claims Collection Standards (FCCS) (31 CFR Parts 900–904).

In accordance with 31 CFR 901.9, Treasury waives administrative costs during the first days following the date of delinquency based on a determination that collection of administrative costs during the first 60 days following the reclamation date would be against equity and good conscience. This policy provides indorsers with a reasonable amount of time to consider the reclamation, conduct any necessary research, and either pay the reclamation or protest it. For the same reasons, Treasury will apply the same policy to interest and penalties, except that penalties will be waived for the first 90 days following the reclamation date. Specifically, paragraph 240.7(d), as revised, provides that: (1) Interest begins accruing at the rate determined under 31 U.S.C. 3717 on the 61st day following the reclamation date; (2) penalties, calculated at not more than 6% of the outstanding balance, begin accruing on the 91st day following the reclamation date; and (3) administrative costs begin accruing on the 61st day following the reclamation date. The definition of Monthly Statement at § 240.2 of NPRM II also is revised to clarify that such statements will include unpaid interest, penalties, and administrative costs.

Fifth, former paragraphs (c) and (d) of § 240.6 are moved to § 240.7 of NPRM II. The substance of current paragraph (c) is incorporated in paragraph (d) of § 240.7 of NPRM II, and the substance of current paragraph (d) is incorporated in paragraph (a) of § 240.7 of NPRM II. New paragraph 240.7(e) of NPRM II provides notice that, should all efforts to collect an unpaid reclamation be unsuccessful, Treasury will terminate collection action on the unpaid balance of the reclamation (including unpaid interest, administrative costs, and penalties), and the unpaid balance will be reported to the Internal Revenue Service as discharged indebtedness in accordance with 26 U.S.C. 6050P.

b. *Reclamation procedures and protests.* Reclamation protest rules, currently promulgated at § 240.7 (Demand and Protest), provide: (1) That a presenting bank may file a protest within 90 days of the reclamation date; (2) that the protest will be reviewed by a division director or an authorized designee, neither of whom was involved in the initial determination of fraudulent indorsement or alteration of the check; and (3) that Treasury will refrain from collection by means of administrative offset while a timely protest is being considered.

NPRM II moves these provisions to § 240.8 (Reclamation procedures; reclamation protests), and proposes that the existing reclamation procedure and protest provisions be revised to clarify certain current practices. Specifically, the proposal clarifies the rights of any indorser that directly receives a reclamation (*i.e.*, the ''reclamation debtor''), including, but not limited to: (1) The right to inspect and copy Treasury records relating to the reclamation; (2) the right to protest the reclamation; and (3) the right to seek a repayment agreement. Paragraph 240.8(b)(1)(i) of NPRM II reiterates the requirement in the current Part 240 that Treasury will not consider protests received more than 90 days after the reclamation date. In addition, the monthly statements will provide notice that Treasury intends to collect the debt through administrative offset if the reclamation debt is not paid within 120 days of the reclamation date.

Consistent with the recent decision by the United States Court of Appeals for the Federal Circuit in *Casa de Cambio Comdiv S.A. de C.V.* v. *U.S.*, 291 F.3d 1356 (Fed. Cir. 2002), paragraph 240.8(b)(1) of NPRM II also clarifies Treasury policy that protests may be filed only by the recipient of the reclamation, the ''reclamation debtor,'' and not by other indorsers of the check that is the subject of the reclamation. Protests by an indorser that was not the direct recipient of a reclamation will be accepted only where authorized by law. While paragraph 240.8(b)(1)(ii) of NPRM II provides Treasury with the discretion to consider information received by indorsers other than the reclamation debtor, any decision by Treasury to exercise such discretion would not, in any way, serve to waive any of Treasury's rights under Part 240, nor would it serve to grant rights to an indorser not otherwise provided in Part 240.

In addition, redesignated paragraph 240.8(c) of NPRM II requires that a protest by the reclamation debtor be filed and a final determination on the protest be issued by Treasury before the reclamation debtor may file a civil lawsuit in relation to Treasury's reclamation action on the check.

6. *Use of powers of attorney in indorsing Treasury checks.* Limitations on the use of powers of attorney for negotiating checks currently are codified in § 240.15. These limitations allow any check to be negotiated under a specific power of attorney which is executed after the issuance of the check and which describes the check in full. General powers of attorney executed in favor of individuals, financial institutions, or other entities may be used to negotiate certain enumerated checks, the right to which does not expire upon the death of the payee/beneficiary. Other types of checks, such as recurring benefit payments, may be negotiated under a special power of attorney that is executed in favor of a financial institution as attorney-in-fact and which states that it is not given to carry into effect an assignment of the right to receive the payment, either to the attorney-in-fact or to any other person. As revised, the rules will change the availability of powers of attorney in the following ways.

a. The proposed rule expands the availability of special powers of attorney by allowing such powers of attorney to be executed in favor of any entity or individual, rather than only financial institutions. However, as is current practice, paragraph 240.16(c) of NPRM II provides that special powers of attorney may be utilized only if they specifically state that they are not being executed with the intent of assigning the right of payment to the attorney-in-fact or to any other person.

b. The proposed rule allows durable special powers of attorney and springing durable special powers of attorney to be used to negotiate classes of checks the right to which expires upon the death of the payee/beneficiary. This includes checks for recurring benefit payments. A durable special power of attorney is a power of attorney that explicitly provides for its continued effect despite the later incompetence of the principal. A springing durable special power of

attorney is similar to a durable special power of attorney in that it survives the principal's incompetence, but differs in that it does not become effective until such time that the principal is determined to be incompetent. A springing durable special power of attorney is created by the principal's use of words explicitly stating that the power of attorney is to become effective upon a determination that the principal is incompetent. The proposed rule allows durable special powers of attorney and springing durable special powers of attorney to be used for a period of six months following the date that a payee/beneficiary of a check is determined to be incompetent.

The new provisions at §§ 240.13 and 240.16(d) and (e) of NPRM II are intended to serve as a six-month bridge from the time a payee/beneficiary is determined to be incompetent until a guardian or other fiduciary is named. As with special powers of attorney, durable special powers of attorney and springing durable special powers of attorney may be executed in favor of an individual, a financial institution or any other entity as attorney-in-fact, but must state that they are not given to carry into effect an assignment of the right to receive payment, either to the attorney-in-fact or to another person. Durable special powers of attorney and springing durable special powers of attorney automatically are revoked, for purposes of negotiating Treasury checks, upon the death of the payee/beneficiary.

c. The proposed rule deletes Appendix A to Part 240 which discusses the various Treasury power of attorney forms. Negotiating checks under a power of attorney no longer will require the use of a Treasury power of attorney form. Individual powers of attorney now will be governed by applicable law to the extent that such powers of attorney are consistent with the limitations provided in this Part, including, but not limited to, the following: (1) That special powers of attorney, durable special powers of attorney, and springing durable special powers of attorney must include a recitation that the power of attorney is not executed to effect an assignment of the right to receive payment either to the attorney-in-fact or to any other person; and (2) that for purposes of negotiating checks covered by this Part, all powers of attorney automatically are revoked upon the death of the beneficiary of the check.

d. Current paragraphs 240.16(f), (g) and (h) are deleted. They no longer are necessary because the descriptions of the types of powers of attorney all require that powers of attorney be executed in accordance with applicable Federal or state law.

7. *Definitions*. Section 240.2 is amended by adding a definition of ''disbursing official.'' This definition is necessary due to revisions to redesignated § 240.9 (Offset) of NPRM II which allow Treasury to refer delinquent debts to any disbursing official of the United States for offset. The definition of ''protest'' has been deleted, and the substance of the definition moved to the protest provisions in §§ 240.6 and 240.8 of NPRM II. The definitions of the terms ''commissioner'' and ''item'' were deleted because the terms are not used in NPRM II.

The definition of ''unauthorized indorsement'' is amended to clarify that it includes forged as well as unauthorized indorsements. As such, the proposed rule uses the term ''forged or unauthorized indorsement,'' and specifically states that it includes situations where the payee's name is signed by another without the authority to do so. The definition is also amended by deleting the reference to 31 CFR Part 209, which was removed from the CFR on December 27, 1996 (61 FR 68155–01). Other definitions were added to improve the readability of Part 240.

8. *Other changes*. The substance of current paragraph 240.3(a)(2) has been moved to paragraph 240.4(a)(1) of NPRM II and has been revised by deleting the language ''unless it is negotiated to a financial institution no later than October 1, 1990.'' The deleted language pertains to checks that were outstanding at the time Part 240 was revised and provided notice that the Secretary of the Treasury, in accordance with 31 U.S.C. 3328(a), would not be required to pay such checks if they were not negotiated by the specified date. Due to the passage of time, the deleted language no longer is necessary. Similarly, the language in current paragraph 240.4(b) is deleted because it relates to the cancellation of checks that were issued before October 1, 1989, and had not been negotiated within 12 months. The deleted language no longer is necessary because all such checks have been paid or canceled pursuant to law.

Redesignated paragraphs 240.8(b) and 240.13(b) of NPRM II are revised to update addresses. In addition, § 240.8 is revised to clarify that a reclamation may be sent to any indorser, not just financial institutions in general or presenting banks in particular. Section 240.8 also is revised to clarify that monthly statements will include all outstanding amounts including unpaid portions of the original claim, interest, penalties, and administrative costs. (See definitions of ''reclamation debt'' and ''reclamation debtor'' in § 240.2 of NPRM II.)

The substance of current § 240.10, concerning the release of original checks, is deleted in order to reflect Treasury's practice of not releasing original checks to indorsers. Paragraph 240.11(a)(5) of NPRM II authorizes a Federal Reserve Bank to release a copy of a check to the indorser.

Redesignated § 240.11 includes the substance of current § 240.9 (Processing of checks). The substance of these rules is revised to clarify that depositaries outside the United States are to make reclamation refunds by checks drawn on or payable through U.S. financial institutions located in the United States, not by making a deposit directly to Treasury's General Account. Reclamation refunds initiated by banks outside the United States shall be sent through their headquarters or U. S. correspondent bank only. The proposed rule also clarifies that all reclamation refunds should be accompanied by documentation identifying the check that was the subject of the reclamation (such as a copy of the reclamation notice or the current monthly statement).

Redesignated § 240.12 of NPRM II is revised to clarify that no check drawn in favor of a financial institution for credit to the account of a payee may be negotiated after the death of a payee.

New § 240.19 of NPRM II incorporates a general reservation of rights provision.

Rulemaking Analysis

Executive Order 12866

It has been determined that this regulation is not a significant regulatory action as defined in E.O. 12866. Therefore, a Regulatory Assessment is not required.

Clarity of Regulations

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. We invite your comments on how to make this proposed rule easier to understand. For example:

- Have we organized the material in this proposed rule to suit your needs?
- Are the requirements in the proposed rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- What else could we do to make this proposed rule easier to understand?

Please send any comments you have on the clarity of this proposed rule to the address specified in the **ADDRESSES** section.

Regulatory Flexibility Act

It is hereby certified pursuant to the Regulatory Flexibility Act that this revision, if adopted, will not have a significant impact on a substantial number of small business entities. The major revisions to Part 240 in this proposed regulation incorporate recent statutory changes, or revise current agency practices relating to implementation of FCCS requirements. Specifically, the provisions concerning collection procedures do not create, in and of themselves, new debt collection tools, impose new fees not authorized by law, or otherwise create new limits on the rights of affected parties, including small business entities. The provisions concerning the referral of delinquent debts to other agencies or United States disbursing officials, and the provisions concerning the collection of delinquent debts by means of TCO, are all in furtherance of specific authorities established by the DCIA. In particular, the DCIA provides that, ''By presenting Treasury checks for payment a presenting bank is deemed to authorize this offset.'' 31 U.S.C. 3712(e). Consequently, any economic impact on small entities will be the result of the application of the statute, rather than a direct result of Treasury regulations.

The provisions relating to how and when penalties and administrative costs will be added to delinquent debts represent a change in Treasury policy relating to implementation of the requirements of the FCCS. While the change in policy may result in some additional costs to some small entities, any such additional costs will be the result of Treasury's compliance with the requirements of the FCCS, and not a direct result of this regulation. Further, the impact of the change in policy will not be significant, because the costs are waived for those who pay within 60 days of the date of reclamation and such costs will be incurred only by those who fail to pay a reclamation in a timely fashion.

Provisions relating to declinations clarify existing Treasury practices concerning the processing of checks determined to include a material defect or alteration prior to Treasury's making final payment on a check. Including such provisions benefits financial institutions, as well as the general public, by providing notice of how and when actions by Treasury to decline final payment may be protested.

Finally, while provisions in this rule supercede existing Federal common law to the extent that such law applies to counterfeit checks, and may result in a shift in liability for losses associated with counterfeit checks, the actual amounts involved are expected to be minimal. An analysis of Treasury statistics for calendar year 2001 indicates that of 95 counterfeit checks presented to Treasury for payment, only one such counterfeit item took more than 30 days to detect. In that instance, the item was detected on the 105th day following presentment. Even in that instance, under the proposed rule, liability for the loss would be shifted to an indorser only if it were determined that the indorser breached the guarantee of authenticity in § 240.3(d) by failing to make all reasonable efforts to ensure that the check was authentic. Consequently, the provisions relating to liability for losses resulting from the payment of counterfeit checks is not expected to have a significant impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Analysis is not required.

Notice and Comment

Public comment is solicited on all aspects of this proposed regulation. Treasury will consider all comments made on the substance of this proposed regulation, but does not intend to hold hearings.

List of Subjects in 31 CFR Part 240

Banks, Banking, Checks, Counterfeit checks, Federal Reserve system, Forgery, Guarantees.

Authority and Issuance

For the reasons stated in the preamble, Part 240 of title 31 is proposed to be revised to read as follows:

PART 240—INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

Subpart A—General Provisions

Sec.

240.1 Scope of regulations.
240.2 Definitions.
240.3 Presentment guarantees.
240.4 Limitations on payment; cancellation and distribution of proceeds of checks.
240.5 Provisional credit; first examination; declination; final payment.
240.6 Declination protest.
240.7 Reclamation of amounts of paid checks.
240.8 Reclamation procedures; reclamation protests.
240.9 Offset.
240.10 Treasury Check Offset.
240.11 Processing of checks.

Subpart B—Indorsement of Checks

240.12 Indorsement by payees.
240.13 Checks issued to incompetent payees.
240.14 Checks issued to deceased payees.
240.15 Checks issued to minor payees.
240.16 Powers of attorney.
240.17 Lack of authority to shift liability.
240.18 Implementing instructions.
240.19 Reservation of rights.

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 321, 3327, 3328, 3331, 3334, 3343, 3711, 3712, 3716, 3717; 332 U.S. 234 (1947); 318 U.S. 363 (1943).

Subpart A—General Provisions

§ 240.1 Scope of regulations.

(a) The regulations in this part prescribe the requirements for indorsement and the conditions for payment of checks drawn on the United States Treasury. These regulations also establish procedures for collection of amounts due the United States Treasury based on claims arising from the breach of presentment guarantees by presenting banks and other indorsers of Treasury checks when checks bearing material defects or alterations or forged disbursing officer (drawer) signatures are presented for payment and are paid.

(b) Standards contained in this regulation supersede existing Federal common law to the extent that they are inconsistent with Federal common law rules relating to counterfeit checks. Under the provisions of this part, the risk of loss on certain counterfeit checks is placed on presenting banks and other indorsers unless Treasury fails to timely reclaim on a check payment in accordance with 31 U.S.C. 3712(a) and § 240.7 of this part. Treasury will reclaim on counterfeit checks that are deemed paid under § 240.5(d) when a presenting bank or other indorser fails to make all reasonable efforts to ensure that a check is an authentic Treasury check.

§ 240.2 Definitions.

Administrative offset or *offset*, for purposes of this section, has the same meaning as defined in 31 U.S.C. 3701(a)(1) and 31 CFR Part 285.

Agency means any agency, department, instrumentality, office, commission, board, service, or other establishment of the United States authorized to issue Treasury checks or for which checks drawn on the United States Treasury are issued.

Certifying agency means an agency authorizing the issuance of a payment by a disbursing official in accordance with 31 U.S.C. 3325.

Check or checks means a check or checks drawn on the United States Treasury.

Check payment means the amount paid to a presenting bank by a Federal Reserve Bank.

Counterfeit check means a document that purports to be an authentic check

drawn on the United States Treasury, but in fact is not an authentic check.

Days means calendar days. For purposes of computation, the last day of the period will be included unless it is a Saturday, Sunday, or Federal holiday; the first day is not included. For example, if a reclamation was issued on July 1, the 90 day protest period under § 240.8(b) would begin on July 2. If the 90th day fell on a Saturday, Sunday or Federal holiday, the protest would be accepted if received on the next business day.

Declination means the process by which Treasury refuses to make final payment on a check, *i.e.,* declines payment, by instructing a Federal Reserve Bank to reverse its provisional credit to a presenting bank.

Declination date means the date on which the declination is issued by Treasury.

Disbursing official means an official, including an official of the Department of the Treasury, the Department of Defense, any Government corporation (as defined in 31 U.S.C. 9101), or any official of the United States designated by the Secretary of the Treasury, authorized to disburse public money pursuant to 31 U.S.C. 3321 or another law.

Drawer's signature means the signature of a disbursing official placed on the front of a Treasury check as the drawer of the check.

Federal Reserve Bank means a Federal Reserve Bank (FRB) or a branch of a Federal Reserve Bank.

Federal Reserve Processing Center means a Federal Reserve Bank center that images Treasury checks for archiving check information and transmitting such information to Treasury.

Financial institution means:

(1) Any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank which is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(2) Any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank which is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(3) Any savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank which is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(4) Any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752) or any credit union which is eligible to make application to become an insured credit union under section 201 of such Act (12 U.S.C. 1781);

(5) Any savings association as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) which is an insured depositary institution (as defined in such Act) (12 U.S.C. 1811 *et seq.*) or is eligible to apply to become an insured depositary institution under the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*); and

(6) Any financial institution outside of the United States if it has been designated by the Secretary of the Treasury as a depositary of public money and has been permitted to charge checks to the General Account of the United States Treasury.

First examination means Treasury's initial review of a check that has been presented for payment. The initial review procedures, which establish the authenticity and integrity of a check presented to Treasury for payment, may include reconciliation; retrieval and inspection of the check or the best available image thereof; and other procedures Treasury deems appropriate to specific circumstances.

Forged or unauthorized drawer's signature means a drawer's signature that has been placed on the front of a Treasury check by a person other than:

(1) A disbursing official; or

(2) A person authorized to sign on behalf of a disbursing official.

Forged or unauthorized indorsement means:

(1) An indorsement of the payee's name by another person who is not authorized to sign for the payee; or

(2) An indorsement of the payee's name made by another person who has been authorized by the payee, but who has not indorsed the check in accordance with § 240.3 and §§ 240.12 through 240.16; or

(3) An indorsement added by a financial institution where the financial institution had no authority to supply the indorsement; or

(4) A check bearing an altered payee name that is indorsed using the payee name as altered.

Guarantor means a financial institution that presents a check for payment and any prior indorser(s) of a check.

Material defect or alteration means:

(1) The counterfeiting of a check; or

(2) Any physical change on a check, including, but not limited to, a change in the amount, date, payee name, or other identifying information printed on the front or back of the check (but not including a forged or unauthorized drawer's signature); or

(3) Any forged or unauthorized indorsement appearing on the back of the check.

Minor means the term minor as defined under applicable State law.

Monthly statement means a statement prepared by Treasury which includes the following information regarding each outstanding reclamation:

(1) The reclamation date;

(2) The reclamation number;

(3) Check identifying information; and

(4) The balance due, including interest, penalties, and administrative costs.

Payee means the person that the certifying agency designated to receive payment pursuant to 31 U.S.C. 3528.

Person means an individual, institution, including a financial institution, or any other type of entity; the singular includes the plural.

Presenting bank means:

(1) A financial institution which, either directly or through a correspondent banking relationship, presents checks to and receives provisional credit from a Federal Reserve Bank; or

(2) A depositary which is authorized to charge checks directly to Treasury's General Account and present them to Treasury for payment through a designated Federal Reserve Bank.

Provisional credit means the initial credit provided to a presenting bank by a Federal Reserve Bank. Provisional credit may be reversed by Treasury until the completion of first examination or final payment is deemed made pursuant to § 240.5(d).

Reclamation means a demand for the amount of a check for which Treasury has requested an immediate refund.

Reclamation date means the date on which a reclamation is issued by Treasury. Normally, demands are sent to presenting banks or other indorsers within 2 business days of the reclamation date.

Reclamation debt means the amount owed as a result of Treasury's demand for refund of a check payment, and includes interest, penalties and administrative costs assessed in accordance with § 240.7.

Reclamation debtor means a presenting bank or other indorser of a check from whom Treasury has demanded a refund in accordance with §§ 240.7 and 240.8. The reclamation debtor does not include a presenting bank or other indorser who may be liable for a reclamation debt, but from which Treasury has not demanded a refund.

Recurring benefit payment includes but is not limited to a payment of money for any Federal Government entitlement program or annuity.

Treasury means the United States Department of the Treasury, or when authorized, an agent designated by the Secretary of the Treasury or his delegee.

Treasury Check Offset means the collection of an amount owed by a presenting bank in accordance with 31 U.S.C. 3712(e).

U.S. securities means securities of the United States and securities of Federal agencies and Government corporations for which Treasury acts as the transfer agent.

Writing includes electronic communications when specifically authorized by Treasury in implementing instructions.

§ 240.3 Presentment guarantees.

The guarantors of a check presented to the Treasury for payment are deemed to guarantee to the Treasury all of the following:

(a) *Indorsements*. That all prior indorsements are genuine, whether or not an express guarantee is placed on the check. When the first indorsement has been made by one other than the payee personally, the presenting bank and the indorsers are deemed to guarantee to the Treasury, in addition to other guarantees, that the person who so indorsed had unqualified capacity and authority to indorse the check on behalf of the payee.

(b) *Alterations*. That the check has not been materially altered.

(c) *Drawer's signature*. That the guarantors have no knowledge that the signature of the drawer is forged or unauthorized.

(d) *Authenticity*. That the guarantors have made all reasonable efforts to ensure that a check is an authentic Treasury check, not a counterfeit check.

§ 240.4 Limitations on payment; cancellation and distribution of proceeds of checks.

(a) *Limitations on payment*. (1) Treasury shall not be required to pay any check that is not negotiated to a financial institution within 12 months after the date on which the check was issued.

(2) All checks shall bear a legend, stating ''Void After One Year.'' The legend is notice to payees and indorsers of a general limitation on the payment of checks. The legend, or the inadvertent lack thereof, does not limit, or otherwise affect, the rights of Treasury under the law.

(b) *Cancellation and distribution of proceeds of checks*. (1) Any check that has not been paid and remains outstanding for more than 12 months after the issue date will be canceled by Treasury.

(2) The proceeds from checks canceled pursuant to paragraph (b)(1) of this section will be returned to the payment certifying or authorizing agency for ultimate credit to the appropriation or fund account initially charged for the payment.

(3) On a monthly basis, Treasury will provide to each agency that authorizes the issuance of checks a list of those checks issued for such agency which were canceled during the preceding month pursuant to paragraph (b)(1) of this section.

§ 240.5 Provisional credit; first examination; declination; final payment.

(a) Any credit issued by a Federal Reserve Bank to a financial institution shall be a provisional credit until Treasury completes first examination of the check, or as provided in paragraph (d) of this section.

(b) Treasury shall have the right as a drawee to complete first examination of checks presented for payment, to reconcile checks, and, when appropriate, to make a declination on any check.

(c) Treasury will decline payment on a check when first examination by Treasury establishes that the check:

(1) Has a material defect or alteration; or

(2) Bears a forged or unauthorized drawer's signature.

(d) Treasury shall have a reasonable amount of time to complete first examination. However, except as provided in paragraph (e) of this section, if Treasury has not declined payment on a check within 90 days after the check is presented to a Federal Reserve Processing Center for payment, Treasury will be deemed to have made final payment on the check.

(e) Notwithstanding the provisions of paragraph (d) of this section, in accordance with 31 U.S.C. 3328(a)(2), if, upon presentment for payment, Treasury is on notice of a question of law or fact about whether a check is properly payable, Treasury may defer final payment until the question is settled.

(f) If a Federal Reserve Bank debits a financial institution's reserve account as a result of an erroneous declination, Treasury will promptly refund the amount of the payment.

§ 240.6 Declination protest.

(a) *Who may protest*. Only a presenting bank may protest the declination of a check that it has presented to a Federal Reserve Bank for payment.

(b) *Basis for protest*. Where Treasury, in accordance with § 240.5, has made a declination of a check presented for payment and a Federal Reserve Bank has reversed its provisional credit to the presenting bank, the presenting bank may file a protest challenging the factual basis for such declination. Protests may be filed challenging the following determinations:

(1) *Counterfeit checks*. The presenting bank may offer evidence that the check is not a counterfeit.

(2) *Altered checks*. The presenting bank may offer evidence that the check is not altered.

(3) *Checks bearing forged or unauthorized drawer's signatures*. The presenting bank may offer evidence that the drawer's signature was authentic or was authorized.

(4) *Checks bearing a forged or unauthorized indorsement*. The presenting bank may offer evidence that an indorsement on the back of the check was not forged or was otherwise authorized in accordance with the requirements of §§ 240.12 through 240.16.

(c) *Procedures for filing a protest*. A declination protest must be in writing, and must be sent to: Department of the Treasury, Financial Management Service, Branch Manager, Financial Processing Division, Check Reconciliation Branch, Room 700–A, 3700 East-West Highway, Hyattsville, MD 20788, or to such other address as Treasury may publish in the Treasury Financial Manual, which can be found at *http://www.fms.treas.gov*. Treasury will not consider any protest unless it is received within 90 days from the declination date.

(d) *Review of a declination protest*. The Director, Financial Processing Division, or an authorized designee, will decide any protest properly submitted under this section, and will notify the presenting bank of Treasury's decision. Neither the Director, Financial Processing Division, nor an authorized designee, will have any involvement in the decision to deny payment of a check under § 240.5.

(1) If, based on the evidence provided, the Director of the Financial Processing Division, or an authorized designee, finds that the presenting bank has met, by a preponderance of the evidence, the criteria in paragraph (b) of this section, Treasury will reverse its decision to decline payment on the check by directing a Federal Reserve Bank to provide credit in the amount of the check to the presenting bank.

(2) If, based on the evidence provided, the Director of the Financial Processing Division, or an authorized designee, finds that the presenting bank has failed to meet, by a preponderance of the evidence, the criteria in paragraph (b) of this section, the declination will not be reversed.

§ 240.7 Reclamation of amounts of paid checks.

(a) If, after making final payment in accordance with § 240.5, Treasury determines that any guarantor has breached a presentment guarantee listed in § 240.3, the guarantor shall be liable to Treasury for the full amount of the check payment. Treasury may reclaim the amount of the check payment from any such guarantor prior to:

(1) The end of the 1-year period beginning on the date that a check is processed for payment by a Federal Reserve Processing Center; or

(2) The expiration of the 180-day period beginning on the close of the period described in paragraph (a)(1) of this section if a timely claim under 31 U.S.C. 3702 is presented to the certifying agency.

(b) Treasury will not reclaim on a check that bears a forged or unauthorized drawer's signature unless it has evidence that the reclamation debtor had knowledge of the forged or unauthorized drawer's signature.

(c) Treasury will not reclaim on a counterfeit check unless the reclamation debtor has failed to make all reasonable efforts to ensure that a check is an authentic check and not a counterfeit check. In general, a reclamation debtor will be deemed to have failed to make all reasonable efforts to ensure that a check is authentic if a counterfeit check is presented to Treasury for payment despite the fact that it lacks one or more specific attributes outlined in guidance provided by Treasury or on Treasury's behalf.

(d) Reclamation debts are due to be paid upon receipt of the reclamation by the reclamation debtor. Interest, penalties, and administrative costs associated with unpaid balances will accrue as follows:

(1) *Interest.* Treasury will assess interest on the unpaid principal of the reclamation debt beginning on the 61st day following the reclamation date, and will calculate interest based on the rate published annually by Treasury in accordance with 31 U.S.C. 3717. Interest will continue to accrue until the full amount of the reclamation is paid or Treasury determines that payment is not required.

(2) *Penalties.* Treasury will assess a penalty beginning on the 91st day following the reclamation date. The penalty will be assessed in accordance with 31 U.S.C. 3717 on the unpaid principal of the reclamation debt, and will continue to accrue until the full amount of the reclamation debt is paid or Treasury determines that payment is not required.

(3) *Administrative costs.* Treasury will assess administrative costs associated with the unpaid reclamation debt beginning on the 61st day following the reclamation date. Administrative costs will continue to accrue until the full amount of the reclamation debt is paid or Treasury determines that payment is not required.

(e) If Treasury is unable to fully collect a reclamation debt from a reclamation debtor, after pursuing all appropriate means of collection (including, but not limited to, administrative offset in accordance with § 240.9 and Treasury Check Offset in accordance with § 240.10), Treasury will discharge the unpaid reclamation debt. *See* 31 CFR 903.5 (Discharge of indebtedness; reporting requirements). Treasury or the certifying agency will report the amount of the unpaid reclamation debt to the Internal Revenue Service in accordance with the requirements of 26 U.S.C. 6050P and 26 CFR 1.6050P–1.

§ 240.8 Reclamation procedures; reclamation protests.

(a) *Reclamation procedures.* (1) Treasury will send a ''REQUEST FOR REFUND (CHECK RECLAMATION)'' to the reclamation debtor in accordance with § 240.7(a). This request will advise the reclamation debtor of the amount demanded and the reason for the demand. Treasury will make follow-up demands by sending at least three monthly statements to the reclamation debtor. Monthly statements will identify any unpaid reclamation debts (as defined at § 240.2) and will contain or be accompanied by notice to the reclamation debtor that:

(i) If the reclamation debt is not paid within 120 days of the reclamation date, Treasury intends to collect the debt through administrative offset in accordance with § 240.9;

(ii) If the administrative offset is unsuccessful, Treasury intends to collect the debt through Treasury Check Offset in accordance with § 240.10;

(iii) The reclamation debtor has an opportunity to inspect and copy Treasury's records with respect to the reclamation debt;

(iv) The reclamation debtor may, by filing a protest in accordance with § 240.8(b), request Treasury to review its decision that the reclamation debtor is liable for the reclamation debt; and

(v) The reclamation debtor has an opportunity to enter into a written agreement with Treasury for the repayment of the reclamation debt. A request for a repayment agreement must be accompanied by documentary proof that satisfies Treasury that the reclamation debtor is unable to repay the entire amount owed when due.

(2) Requests by a reclamation debtor for an appointment to inspect and copy Treasury's records with respect to a reclamation debt and requests to enter into repayment agreements must be sent in writing to: Department of the Treasury, Financial Management Service, Financial Processing Division, Reclamation Branch, Room 700D, PO Box 1849, Hyattsville, MD 20788, or to such other address as Treasury may publish in the Treasury Financial Manual, which can be found at *http://www.fms.treas.gov*.

(3) If a reclamation debt remains unpaid for 90 days after the reclamation date and if there is no unresolved protest associated with the reclamation debt, the monthly statement will be annotated with a notice that the reclamation debtor has until the next billing date to make payment on the reclamation debt or Treasury will proceed to collect the reclamation debt through offset in accordance with § 240.9 and Treasury Check Offset in accordance with § 240.10.

(4) If Treasury determines that a reclamation has been made in error, Treasury will abandon the reclamation. If Treasury already has collected the amount of the reclamation from the reclamation debtor, Treasury will promptly refund to the reclamation debtor the amount of its payment. Treasury may refund the amount either by applying the amount to another reclamation debt owed by the reclamation debtor in accordance with this Part or other applicable law, or by returning the amount to the reclamation debtor.

(b) *Reclamation protests.* (1) *Who may protest.* Only a reclamation debtor may protest a reclamation.

(2) *Basis for protest.* Where Treasury, in accordance with § 240.7 and subsection (a) of this section, reclaims the amount of a check payment, the reclamation debtor may file a protest challenging such reclamation. Protests may be filed challenging the following determinations:

(i) *Counterfeit checks.* The reclamation debtor may offer evidence that it did make all reasonable efforts to ensure that a check is authentic. Such evidence must include evidence that the

protestor examined the check in accordance with guidelines provided by Treasury or on Treasury's behalf.

(ii) *Altered checks*. The reclamation debtor may offer evidence that the check is not altered.

(iii) *Checks bearing forged or unauthorized drawer's signatures*. The reclamation debtor may offer evidence that the reclamation debtor did not have knowledge of the forged or unauthorized drawer's signature.

(iv) *Checks bearing a forged or unauthorized indorsement*. The reclamation debtor may offer evidence that the indorsement was not forged or was otherwise authorized in accordance with the requirements of §§ 240.12 through 240.16.

(3) *Procedures for filing a protest*. A reclamation protest must be in writing, and must be sent to: Department of the Treasury, Financial Management Service, Financial Processing Division, Reclamation Branch, Room 700D, PO Box 1849, Hyattsville, MD 20788, or to such other address as Treasury may publish in the Treasury Financial Manual, which can be found at *http://www.fms.treas.gov*.

(i) The reclamation protest must include supporting documentation (including, but not limited to, affidavits, account agreements, and signature cards) for the purpose of establishing that the reclamation debtor is not liable for the reclamation debt.

(ii) Treasury will not consider reclamation protests received more than 90 days after the reclamation date.

(iii) Treasury may, at its discretion, consider information received from a guarantor other than the reclamation debtor. However, in so doing, Treasury does not waive any of its rights under this part, nor does Treasury grant rights to any guarantor that are not otherwise provided in this Part.

(4) *Review of a reclamation protest*. The Director, Financial Processing Division, or an authorized designee, will consider and decide any protest properly submitted under this section. Neither the Director, Financial Processing Division, nor an authorized designee, will have any involvement in the process of making determinations under § 240.7(a) or sending a ''REQUEST FOR REFUND (CHECK RECLAMATION)'' under § 240.8(a).

(i) Treasury will refrain from the collection activities identified in §§ 240.9 and 240.10 while a timely protest is being considered. However, interest, penalties, and administrative costs will continue to accrue and be added to the reclamation debt until a final determination on the protest has been made.

(ii) If, based on the evidence provided, the Director of the Financial Processing Division, or an authorized designee, finds that the reclamation debtor has met, by a preponderance of the evidence, the criteria in paragraph (b)(2) of this section, Treasury will notify the reclamation debtor, in writing, of his or her decision to terminate collection and will refund any amounts previously collected for the reclamation debt. Treasury may refund the amount either by applying the amount to another reclamation debt owed by the reclamation debtor in accordance with this Part or other applicable law, or by returning the amount to the reclamation debtor.

(iii) If the Director, Financial Processing Division, or an authorized designee, finds, by a preponderance of the evidence, that the reclamation debtor is liable for the reclamation debt, Treasury will notify the reclamation debtor, in writing, of his or her decision. If the reclamation debtor has not paid the reclamation in full, the reclamation debtor must pay any outstanding amounts in full within 30 days from the date of Treasury's decision. If the reclamation debtor fails to pay the reclamation debt in full within that time frame, Treasury will proceed to collect the reclamation debt through offset in accordance with §§ 240.9 and 240.10.

(5) *Effect of protest decision*. The notice provided to the reclamation debtor under paragraph (b)(4)(iii) of this section shall serve as the final agency determination under the Administrative Procedure Act (5 U.S.C. 701, *et seq.*). No civil suit may be filed until the reclamation debtor has filed a protest under this section, and Treasury has provided notice of its final determination.

§ 240.9 Offset.

(a) If a reclamation debt remains unpaid for 120 days after the reclamation date, Treasury will refer the reclamation debt, if eligible, to Treasury's centralized offset program (see 31 CFR part 285) or another Federal agency for offset in accordance with 31 U.S.C. 3716. Prior to making a referral for offset, Treasury, in accordance with § 240.8(a)(3), will send at least one monthly statement to the reclamation debtor informing the reclamation debtor that Treasury intends to collect the reclamation debt by administrative offset and Treasury Check Offset.

(b) If a reclamation debtor wishes to make payment on a reclamation debt referred for offset, the reclamation debtor should contact Treasury at the address listed in § 240.8(b) to resolve the debt and avoid offset.

(c) If Treasury is unable to collect a reclamation debt by use of the offset described in paragraph (a) of this section, Treasury shall take such action against the reclamation debtor as may be necessary to protect the interests of the United States, including, but not limited to, Treasury Check Offset in accordance with § 240.10, or referral to the Department of Justice.

(d) If Treasury effects offset under this section and it is later determined that the reclamation debtor already had paid the amount of the reclamation debt, or that a reclamation debtor which had timely filed a protest was not liable for the amount of the reclamation, Treasury will promptly refund to the reclamation debtor the amount of its payment. Treasury may refund the amount either by applying the amount to another reclamation debt owed by the reclamation debtor in accordance with this Part or other applicable law, or by returning the amount to the reclamation debtor.

§ 240.10 Treasury Check Offset.

(a) If Treasury is unable to effect collection pursuant to §§ 240.7 and 240.8, or § 240.9, Treasury will collect the amount of the reclamation debt through Treasury Check Offset. Treasury Check Offset occurs when, at the direction of the Treasury, a Federal Reserve Bank withholds, that is, offsets, credit from a presenting bank. The amount of credit offset is applied to the reclamation debt owed by the presenting bank. By presenting Treasury checks for payment, the presenting bank is deemed to authorize Treasury Check Offset.

(b) If Treasury effects offset under this section and it is later determined that the presenting bank paid the reclamation debt in full, or that a presenting bank was not liable for the amount of the reclamation debt, Treasury will promptly refund to the presenting bank the amount of its overpayment. Treasury may refund the amount either by applying the amount to another reclamation debt in accordance with this Part or other applicable law, or by returning the amount to the presenting bank.

(c) Treasury Check Offset is used for the purpose of collecting debt owed by a presenting bank to the Federal Government. As a consequence, presenting banks shall not be able to use the fact that Treasury checks have not been paid as the basis for a claim against Treasury, a Federal Reserve Bank, or other persons or entities, including payees or other indorsers of checks, for the amount of the credit offset pursuant to 31 U.S.C. 3712(e) and this section.

(d) This section does not apply to a claim based upon a reclamation that has been outstanding for more than 10 years from the date of delinquency.

§ 240.11 Processing of checks.

(a) *Federal Reserve Banks.* (1) Federal Reserve Banks must cash checks for Government disbursing officials when such checks are drawn by the disbursing officials to their own order, except that payment of such checks must be refused if:

(i) A check bears a material defect or alteration;

(ii) A check was issued more than one year prior to the date of presentment; or

(iii) The Federal Reserve Bank has been notified by Treasury, in accordance with § 240.14(c), that a check was issued to a deceased payee.

(2) Federal Reserve Banks are not required to cash checks presented directly to them by the general public.

(3) As a depositary of public funds, each Federal Reserve Bank shall:

(i) Receive checks from its member banks, nonmember clearing banks, or other depositors, when indorsed by such banks or depositors who guarantee all prior indorsements thereon;

(ii) Give immediate provisional credit therefore in accordance with their current Time Schedules and charge the amount of the checks cashed or otherwise received to the General Account of the United States Treasury, subject to first examination and payment by Treasury;

(iii) Forward payment records, requested original checks, and copies of checks to Treasury; and

(iv) Release the original checks to a designated Regional Records Services Facility upon notification from Treasury.

(4) If a check is to be declined under § 240.5, Treasury will provide the Federal Reserve Bank with notice of declination upon the completion of first examination. Federal Reserve Banks must give immediate credit therefor to Treasury's General Account, thereby reversing the previous charge to the General Account for such check.

(5) Treasury authorizes each Federal Reserve Bank to release a copy of the check to the presenting bank when payment is declined.

(b) *Treasury General Account (TGA) designated depositaries outside the United States.*—(1) Financial institutions outside the United States designated by Treasury as depositaries of public money in accordance with 31 U.S.C. 3303 and permitted to charge checks to the General Account of the United States Treasury in accordance with Treasury implementing instructions shall be governed by the operating instructions contained in the letter of authorization to them from Treasury and are, as presenting banks, subject to the provisions of §§ 240.3, 240.7, and 240.8.

(2) If a check is to be declined under § 240.5, Treasury will provide the presenting bank with notice of declination upon the completion of first examination and will provide the presenting bank with a copy or image of the check. Such presenting bank must give immediate credit therefor to the General Account of the United States Treasury, thereby reversing the previous charge to the Account for such check. Treasury authorizes the designated Federal Reserve Bank to return to such presenting bank the original check when payment is declined in accordance with § 240.4(a) or § 240.14(c).

(3) To ensure complete recovery of the amount due, reclamation refunds require payment in U.S. dollars with checks drawn on or payable through U.S. financial institutions located in the United States. Reclamation refunds initiated by financial institutions outside of the United States must be sent through their headquarters or U.S. correspondent financial institution only. The payments should be accompanied by documentation identifying the check that was the subject of the reclamation (such as a copy of the reclamation notice or the current monthly statement). Reclamation refunds shall not be deposited to Treasury's General Account.

Subpart B—Indorsement of Checks

§ 240.12 Indorsement by payees.

(a) *General requirements.* Checks shall be indorsed by the named payee or by another on behalf of such named payee as set forth in this part.

(b) *Acceptable indorsements.*—(1) A check is properly indorsed when:

(i) The check is indorsed by the payee in a form recognized by general principles of law and commercial usage for negotiation, transfer or collection of negotiable instruments.

(ii) The check is indorsed by another on behalf of the named payee, and sufficiently indicates that the indorser has indorsed the check on behalf of the payee pursuant to authority expressly conferred by or under law or other regulation. An example would be: ''John Jones by Mary Jones.'' This example states the minimum indication acceptable. However, §§ 240.13, 240.14, and 240.16(f) specify the addition of an indication in specified situations of the actual capacity in which the person other than the named payee is indorsing.

(iii) Absent a signature, the check is indorsed ''for collection'' or ''for deposit only to the credit of the within named payee or payees.'' The presenting bank shall be deemed to guarantee good title to checks without signatures to all subsequent indorsers and to Treasury.

(iv) The check is indorsed by a financial institution under the payee's authorization.

(2) *Indorsement of checks by a duly authorized fiduciary or representative.* The individual or institution accepting a check from a person other than the named payee is responsible for determining whether such person is authorized and has the capacity to indorse and negotiate the check. Evidence of the basis for such a determination may be required by Treasury in the event of a dispute.

(3) *Indorsement of checks by a financial institution under the payee's authorization.* When a check is credited by a financial institution to the payee's account under the payee's authorization, the financial institution may use an indorsement substantially as follows: ''Credit to the account of the within-named payee in accordance with the payee's instructions. XYZ [Name of financial institution].'' A financial institution using this form of indorsement will be deemed to guarantee to all subsequent indorsers and to the Treasury that it is acting as an attorney-in-fact for the payee, under the payee's authorization, and that this authority is currently in force and has neither lapsed nor been revoked either in fact or by the death or incapacity of the payee.

(4) *Indorsement of checks drawn in favor of financial institutions.* All checks drawn in favor of a financial institution, for credit to the account of a person designating payment so to be made, must be indorsed in the name of the financial institution as payee in the usual manner. However, no check drawn in favor of a financial institution for credit to the account of a payee may be negotiated by the financial institution after the death of the payee.

(c) *Unacceptable indorsements.*—(1) A check is not properly indorsed when the check is signed or otherwise is indorsed by a person without the payee's consent or authorization.

(2) Failure to include the signature of the person signing the check as required by paragraph (b)(1)(ii) of this section will create a rebuttable presumption that the indorsement is a forgery and is unacceptable.

(3) Failure to include sufficient indication of the indorser's authority to

act on behalf of the payee as required by paragraph (b)(1)(ii) of this section will create a rebuttable presumption that the indorsing person is not authorized to indorse a check for the payee.

§ 240.13 Checks issued to incompetent payees.

(a) *Handling of checks when a guardian or other fiduciary has been appointed.*—(1) A guardian appointed in accordance with applicable State law, or a fiduciary appointed in accordance with other applicable law, may indorse checks issued for the following classes of payments the right to which under law does not terminate with the death of the payee: payments for the redemption of currencies or for principal and/or interest on U.S. securities; payments for tax refunds; and payments for goods and services.

(i) A guardian or other fiduciary indorsing any such check on behalf of an incompetent payee, must include, as part of the indorsement, an indication of the capacity in which the guardian or fiduciary is indorsing. An example would be: ''John Jones by Mary Jones, guardian of John Jones.''

(ii) When a check indorsed in this fashion is presented for payment by a financial institution, it will be paid by Treasury without submission of documentary proof of the authority of the guardian or other fiduciary, with the understanding that evidence of such claimed authority to indorse may be required by Treasury in the event of a dispute.

(2) A guardian or other fiduciary may not indorse a check issued for any class of payment other than one specified in paragraph (a)(1) of this section. When a check other than one specified in paragraph (a)(1) of this section is received by a guardian or other fiduciary, the check must be returned to the certifying agency with information as to the incompetency of the payee and documentary evidence showing the appointment of the guardian or other fiduciary in order that a replacement check, and future checks, may be drawn in favor of the guardian or other fiduciary.

(b) *Handling of checks when a guardian or other fiduciary has not been appointed.* If a guardian or other fiduciary has not been appointed, all checks issued to an incompetent payee must be returned to the certifying agency for determination as to whether, under applicable law, payment is due and to whom it may be made.

(c) *Handling of certain checks by an attorney-in-fact.* Notwithstanding paragraph (a)(2) of this section, if a check was issued for a class of payments the right to which under law terminates upon the death of the beneficiary, such as a recurring benefit payment or annuity, the check may be negotiated under a durable special power of attorney or springing durable special power of attorney subject to the restrictions enumerated in § 240.16. After the end of the six-month period provided in §§ 240.16(d) and (e), such checks must be handled in accordance with paragraph (a)(2) of this section.

§ 240.14 Checks issued to deceased payees.

(a) *Handling of checks when an executor or administrator has been appointed.*—(1) An executor or administrator of an estate that has been appointed in accordance with applicable State law may indorse checks issued for the following classes of payments the right to which under law does not terminate with the death of the payee: payments for the redemption of currencies or for principal and/or interest on U.S. securities; payments for tax refunds; and payments for goods and services.

(i) An executor or administrator indorsing any such check must include, as part of the indorsement, an indication of the capacity in which the executor or administrator is indorsing. An example would be: ''John Jones by Mary Jones, executor of the estate of John Jones.''

(ii) When a check indorsed in this fashion is presented for payment by a financial institution, it will be paid by Treasury without the submission of documentary proof of the authority of the executor or administrator, with the understanding that evidence of such claimed authority to indorse may be required by Treasury in the event of a dispute.

(2) An executor or administrator of an estate may not indorse a check issued for any class of payment other than one specified in paragraph (a)(1) of this section. Other checks, such as recurring benefit payments and annuity payments, may not be negotiated after the death of the payee. Such checks must be returned to the certifying agency for determination as to whether, under applicable law, payment is due and to whom it may be made.

(b) *Handling of checks when an executor or administrator has not been appointed.* If an executor or administrator has not been appointed, all checks issued to a deceased payee must be returned to the certifying agency for determination as to whether, under applicable law, payment is due and to whom it may be made.

(c) *Handling of checks when a certifying agency learns, after the issuance of a recurring benefit payment check, that the payee died prior to the date of issuance.* (1) A recurring benefit payment check, issued after a payee's death, is not payable. As a consequence, when a certifying agency learns that a payee has died, the certifying agency must give immediate notice to Treasury, as prescribed in the implementing instructions described in § 240.18. Upon receipt of such notice from a certifying agency, Treasury will instruct the Federal Reserve Bank to refuse payment of the check upon presentment. Upon receipt of such instruction from Treasury, the Federal Reserve Bank will make every appropriate effort to intercept the check. If the check is successfully intercepted, the Federal Reserve Bank will refuse payment, and will return the check unpaid to the presenting bank with an annotation that the payee is deceased. If a financial institution learns that a date of death triggering action under this section is erroneous, the financial institution must advise the payee to contact the payment certifying agency.

(2) Nothing in this section shall limit the right of Treasury to institute reclamation proceedings under the provisions of §§ 240.7 and 240.8 with respect to a check issued to a deceased payee that has been negotiated and paid over a forged or unauthorized indorsement.

§ 240.15 Checks issued to minor payees.

(a) Checks in payment of principal and/or interest on U.S. securities that are issued to minors may be indorsed by:

(1) Either parent with whom the minor resides; or

(2) If the minor does not reside with either parent, by the person who furnishes the minor's chief support.

(b) The parent or other person indorsing on behalf of the minor must present with the check the indorser's signed statement giving the minor's age, and stating that the payee either resides with the parent or receives his or her chief support from the person indorsing on the minor's behalf and that the proceeds of the check will be used for the minor's benefit.

§ 240.16 Powers of attorney.

(a) *Specific powers of attorney.* Any check may be negotiated under a specific power of attorney executed in accordance with applicable State or Federal law after the issuance of the check and describing the check in full (check serial and symbol numbers, date of issue, amount, and name of payee).

(b) *General powers of attorney.* Checks may be negotiated under a

general power of attorney executed, in accordance with applicable State or Federal law, in favor of a person for the following classes of payments:

(1) Payments for the redemption of currencies or for principal and/or interest on U.S. securities;

(2) Payments for tax refunds, but subject to the limitations concerning the mailing of Internal Revenue refund checks contained in 26 CFR 601.506(c); and

(3) Payments for goods and services.

(c) *Special powers of attorney.* Checks issued for classes of payments other than those specified in paragraph (b) of this section, such as a recurring benefit payment, may be negotiated under a special power of attorney executed in accordance with applicable State or Federal law, which describes the purpose for which the checks are issued, names a person as attorney-in-fact, and recites that the special power of attorney is not given to carry into effect an assignment of the right to receive such payment, either to the attorney-in-fact or to any other person.

(d) *Durable special powers of attorney.* A durable special power of attorney is a special power of attorney which continues despite the principal's later incompetency, and is created by the principal's use of words explicitly stating such intent. Classes of checks other than those specified in paragraph (b) of this section may be negotiated under a durable special power of attorney executed in accordance with applicable State or Federal law, which describes the purpose for which the checks are issued, names a person as attorney-in-fact, and recites that the special power of attorney is not given to carry into effect an assignment of the right to receive such payment, either to the attorney-in-fact or to any other person. For the purpose of negotiating Treasury checks, durable special powers of attorney are effective only during the 6-month period following a determination that the named payee is incompetent.

(e) *Springing durable special powers of attorney.* A springing durable special power of attorney is similar to a durable power of attorney except that its terms do not become effective until the principal's subsequent incompetence. As with a durable special power of attorney, a springing durable special power of attorney is created by the principal's use of language explicitly stating that its terms become effective at such time as the principal is determined to be incompetent. Classes of checks other than those specified in paragraph (b) of this section may be negotiated under a springing durable special power of attorney executed in accordance with applicable State or Federal law, which describes the purpose for which the checks are issued, names a person as attorney-in-fact, and recites that the springing durable special power of attorney is not given to carry into effect an assignment of the right to receive payment, either to the attorney-in-fact or to any other person. For the purpose of negotiating Treasury checks, springing durable special powers of attorney are effective only during the 6-month period following a determination that the named payee is incompetent.

(f) *Proof of authority.* Checks indorsed by an attorney-in-fact must include, as part of the indorsement, an indication of the capacity in which the attorney-in-fact is indorsing. An example would be: ''John Jones by Paul Smith, attorney-in-fact for John Jones.'' Such checks when presented for payment by a financial institution, will be paid by Treasury without the submission of documentary proof of the claimed authority, with the understanding that evidence of such claimed authority to indorse may be required by Treasury in the event of a dispute.

(g) *Revocation of powers of attorney.* Notwithstanding any other law, for purposes of negotiating Treasury checks, all powers of attorney are deemed revoked by the death of the principal and may also be deemed revoked by notice from the principal to the parties known, or reasonably expected, to be acting on the power of attorney.

§ 240.17 Lack of authority to shift liability.

(a) This part neither authorizes nor directs a financial institution to debit the account of any person or to deposit any funds from any account into a suspense account or escrow account or the equivalent. Nothing in this part shall be construed to affect a financial institution's contract with its depositor(s) under authority of state law.

(b) A financial institution's liability under this part is not affected by any action taken by it to recover from any person the amount of the financial institution's liability to the Treasury.

§ 240.18 Implementing instructions.

Additional procedural instructions implementing these regulations will be issued by the Financial Management Service in Volume I, Part 4 (instructions relating to disbursing), and Volume II, Part 4 (instructions relating to Federal Reserve Banks), of the Treasury Financial Manual. Implementing instructions relating to designated depositaries outside the United States are published in Volume VI, Chapter 2000, of the Treasury Financial Manual.

§ 240.19 Reservation of rights.

The Secretary of the Treasury reserves the right, in the Secretary's discretion, to waive any provision(s) of this part not otherwise required by law.

Dated: April 17, 2003.

Richard L. Gregg,

Commissioner.

[FR Doc. 03–9998 Filed 4–22–03; 8:45 am]

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Federal Register

Wednesday,
April 23, 2003

Part III

Department of Agriculture

Foreign Agricultural Service

7 CFR Part 1580

Trade Adjustment Assistance for Farmers; Proposed Rule

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 1580

RIN 0551–AA66

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement Chapter 6 of Title II of the Trade Act of 1974, as amended by Subtitle C of Title 1 of the Trade Act of 2002 (Pub. L. 107–210) to establish a new program, Trade Adjustment Assistance for Farmers. Under this program, the Department of Agriculture would provide technical assistance and cash benefits to eligible producers of raw agricultural commodities when the Administrator, Foreign Agricultural Service (FAS) determines that increased imports have contributed importantly to a specific price decline over five preceding marketing years. The proposed rule would establish the procedure by which producers of raw agricultural commodities can petition for certification of eligibility and apply for technical assistance and adjustment payments.

DATES: Comments should be received on or before May 23, 2003, to be assured of consideration.

ADDRESSES: Comments should be mailed or delivered to Jean-Louis Pajot, Import Policies and Programs Division, Foreign Agricultural Service, 1400 Independence Avenue, SW., STOP 1021, U.S. Department of Agriculture, Washington, DC 20250–1021. Comments may also be e-mailed to *Jean-Louis.Pajot@usda.gov.* Comments received may be inspected between 10 a.m. and 4 p.m. at room 5541–S, 1400 Independence Avenue, SW., Washington, DC 20250–1021.

FOR FURTHER INFORMATION CONTACT: Jean-Louis Pajot at the address above, or telephone at (202) 720–2916, or e-mail at *Jean-Louis.Pajot@usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The proposed rule has been determined to be significant under E.O. 12866 and has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Regulatory Flexibility Act ensures that regulatory and information requirements are tailored to the size and nature of small businesses, small organizations, and small governmental jurisdictions. This proposed rule will not have a significant economic impact on a substantial number of small farm operations. Participation in the program is voluntary. Direct and indirect costs are likely to be very small as a percentage of revenue and in terms of absolute costs. The minimal regulatory requirements impact large and small businesses equally, and the program's benefits should improve cash flow and liquidity for farmers participating in the program.

Paperwork Reduction Act

Summary: In accordance with the Paperwork Reduction Act of 1995, the Department intends to request approval by the Office of Management and Budget (OMB) of an information collection required to support the proposed rule establishing an adjustment assistance program for farmers. Copies of the information collection may be obtained from Kimberly Chisley, the Agency Information Collection Coordinator, at (202) 720–2568 or e-mail at *Chisley@fas.usda.gov.*

To obtain program benefits, under this program, a group of raw agricultural commodity producers, or their duly authorized representative, must submit a petition to the Administrator for certification of eligibility to apply for adjustment assistance. The proposed rule contains an information collection that solicits data that is essential for the Administrator in making a determination on certification of eligibility for adjustment assistance. The information collection requires, to the maximum extent feasible, that a petition contain: A description of the raw agricultural product concerned; data on specific prices for the most recent marketing year; national average or regional prices for the commodity for the five preceding marketing years; data on increases in imports of a directly competing commodity; and an assessment of the impact of increased imports on domestic prices, including any supporting evidence that imports contributed importantly to a decline in domestic prices. Within 90 days after certification, a producer may submit an application for adjustment assistance benefits. The application contains an information collection that conforms to the requirements of section 296 regarding conditions that must be met to qualify for cash benefits. The application requires submission of: Standard business information; the quantity of production in the year covered by the certification accompanied by supporting documentation; data on gross income and net farm income accompanied by supporting documentation; certification that an applicant has not received other cash benefits; and certification that an applicant has obtained information and technical assistance from the Extension Service to assist the applicant in adjusting to import competition.

Estimate of the Burden: The average estimated public reporting burden is 14 hours.

Respondents: Groups of farmers of raw agricultural commodities or their duly authorized representatives.

Estimated annual number of respondents: 500.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 7,000 hours.

Copies of the information collection can be obtained from Kimberly Chisley, the Agency Collection Coordinator, at (202) 720–2568.

Requests for comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, or any other aspect of this collection of information. Comments on issues covered by the Paperwork Reduction Act must be submitted within 30 days of publication to be assured of consideration. Comments may be sent to Jean-Louis Pajot, Import Policies and Program Division, FAS, 1400 Independence Avenue, Stop 1021, SW., Washington, DC 20520–1021. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also be a matter of public record. Persons with disabilities who require an alternative means for communication of information (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

FAS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies, in general, to provide the public the option of submitting information or transacting business

electronically to maximum extent possible. Electronic submission of the information collection will be implemented before October 2003 in compliance with the GPEA. The Department will request OMB approval of forms that are being developed for electronic submission of the information collection, and issue a **Federal Register** notice soliciting public comments on the requested revision of the information collection to provide for submission of the information collection on electronic forms. All public comments received will be considered prior to implementation of an electronic reporting system, and will also become a matter of public record. Copies of that information collection will be made available from Kimberly Chisley, the Agency Information Collection Coordinator, at (202) 720–2568 or e-mail at *Chisley@fas.usda.gov.*

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988. The provisions of this proposed rule would not have preemptive effect with respect to any State or local laws, regulations, or policies which conflict with such provision or which otherwise impede their full implementation. The proposed rule would not have retroactive effect. Before any judicial action may be brought regarding this rule, all administrative remedies must be exhausted.

National Environmental Policy Act

The Administrator has determined that this action will not have a significant effect on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is necessary for this proposed rule.

Executive Orders 12372, 13083 and 13084, and the Unfunded Mandates Reform Act (Pub. L. 104–4)

These Executive Orders and Pub. L. 104–4 require consultation with State and local officials and Indian tribal governments. This proposed rule does not impose an unfunded mandate or any other requirement on State, local or tribal governments. Accordingly, these programs are not subject to the provisions of Executive Order 12372, Executive Order 13083, and Executive Order 13084, or the Unfunded Mandates Reform Act.

Executive Order 12630

This Order requires careful evaluation of governmental actions that interfere with constitutionally protected property rights. This proposed rule would not interfere with any property rights and, therefore, does not need to be evaluated on the basis of the criteria outlined in Executive Order 12630.

Background

The Trade Act of 2002 (Pub. L. 107–210) amended the Trade Act of 1974 (19 U.S.C. 2551, *et seq.*) to add a new chapter 6, which establishes a program of trade adjustment assistance for farmers, providing both technical assistance and cash benefits to producers. The statute authorizes an appropriation of not more than $90 million for each fiscal year 2003 through 2007 to carry out the program.

Under this proposed rule, a group of agricultural commodity producers may petition the Administrator of the Foreign Agricultural Service (FAS) for trade adjustment assistance from mid-August through the end of January. FAS will first review the petition for appropriateness, completeness, and timeliness, before publishing a notice in the **Federal Register** that it has been received. The Economic Research Service (ERS) will then conduct a market study to verify the decline in producer prices, and to assess possible causes, taking due account of any special factors which may have affected prices of the articles concerned, including imports, exports, production, changes in consumer preferences, weather conditions, diseases, and other relevant issues. ERS will report its findings to the FAS Administrator, who will then determine whether or not the group is eligible for trade adjustment assistance. If the national average price in the most recent marketing year for the commodity produced by the group is equal to or less than 80 percent of the average of the national average prices in the preceding 5 marketing years and that increases in imports of that commodity contributed importantly to the decline in price, the Administrator will certify the group as eligible for trade adjustment assistance.

Upon certification, producers have 90 days to contact the Farm Service Agency (FSA) to apply for assistance. As soon as they apply, they are eligible to receive at no cost a technical assistance package specifically tailored for their needs by the Extension Service. Depending on the commodity and the region, the Extension Service package may include technical publications in print or on-line, group seminars and presentations, and one-on-one meetings. Producers, who receive the technical assistance and also satisfy personal and farm income limits, are eligible for TAA payments. If the funding authorized by Congress is insufficient to pay 100 percent of all TAA claims during the fiscal year, payments will be prorated and issued after June 15, the last possible date for producers to file a TAA application.

Producers may petition for adjustment assistance in subsequent years. Petitions will be reviewed and approved if prices remain at or below the same 80 percent threshold as the initial year of adjustment assistance, and if imports have continued to increase and contributed importantly to the decline in prices.

The Department invites comments on all aspects of the proposed rule including: Eligibility requirements, including the coverage of aquaculture; unintended market consequences of the program to producers, importers, buyers and consumers; timing and prorating of adjustment payments when funding may be insufficient; petitions on behalf of producers within regions of the United States; marketing periods of less than 12 months; and less restrictive alternatives to the proposed rule that would address the intent of the program.

List of Subjects in 7 CFR Part 1580

Agricultural commodities, Imports, Reporting and recordkeeping requirements, Trade adjustment assistance.

Proposed Rule

Accordingly, it is proposed to amend title 7 of the Code of Federal Regulations by adding a new part 1580, to read as follows:

PART 1580—TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

Sec.

1580.101 General statement.
1580.102 Definitions.
1580.201 Petitions for trade adjustment assistance.
1580.202 Hearings, petition reviews, and amendments.
1580.203 Determination of eligibility and certification by the Administrator.
1580.301 Application for adjustment assistance.
1580.302 Technical assistance and services.
1580.303 Adjustment assistance payments.
1580.401 Subsequent qualifying year eligibility.
1580.501 Administration.
1580.502 Maintenance of records, audits and compliance.
1580.503 Debarment and suspension.
1580.504 Fraud and recovery of overpayments.
1580.505 Appeals.
1580.601 Implementation.
1580.602 Paperwork Reduction Act assigned number.

Authority: 19 Sec. U.S.C. 2401.

§ 1580.101 General statement.

This part provides regulations for the Trade Adjustment Assistance for Farmers program. Under these provisions, producers of agricultural commodities may petition the Department of Agriculture for eligibility to apply for trade adjustment assistance based on criteria set forth in the Trade Act of 1974, as amended by the Trade Act of 2002 (19 U.S.C. 2251, *et seq.*). If the Administrator determines that the national average price for a commodity is less than 80 percent of the preceding 5-year average and that an increase in imports has contributed importantly to the decline in commodity prices, the producers may apply for technical assistance and cash benefits under the program.

§ 1580.102 Definitions.

As used in the part, the following terms mean:

Adjusted gross income means income as defined in 7 CFR 1400.601.

Administrator means the Administrator of the Foreign Agricultural Service (FAS).

Agricultural commodity means any commodity in its raw or natural state found in chapters 1, 4, 5, 6, 7, 8, 10, 12, 14, 23, 24, 41, 51, and 52 of the *Harmonized Tariff Schedule of the United States* (HTS), and chapter 3 of the HTS with respect to aquaculture products.

Articles like or directly competitive generally means products falling under the same HTS number used to identify the agricultural commodity in the petition. A *like* product means substantially identical in inherent or intrinsic characteristics, and the term *directly competitive* means those articles which are substantially equivalent for commercial purposes, that is, are adapted to the same uses and are essentially interchangeable therefore.

Authorized representative means an association of agricultural commodity producers.

Certification date means the date on which the Administrator announces in the **Federal Register** or by Department news release, whichever comes first, a certification of eligibility to apply for adjustment assistance.

Contributed importantly means a cause which is important, but not necessarily more important than any other cause.

Department means the U.S. Department of Agriculture.

Deputy Administrator means the Deputy Administrator of the Farm Service Agency (FSA).

Extension Service means the Cooperative State Research, Education, and Extension Service of the U.S. Department of Agriculture.

Family member means an individual to whom a person is related as spouse, lineal ancestor, lineal descendent, or sibling, including:

(1) Great grandparent;
(2) Grandparent;
(3) Parent;
(4) Child, including legally adopted children;
(5) Great grandchildren;
(6) Sibling of the family member in the farming operation; and
(7) Spouse of a person listed in paragraphs (1) through (6) of this definition.

Farm Service Agency (FSA) means the Farm Service Agency of the U.S. Department of Agriculture.

Filing date means the date that a notice of petition is published in the **Federal Register**.

Group of producers means three or more producers who are not members of the same family.

Impacted area means one or more States of the United States.

Marketing year means the marketing season or year as defined by National Agriculture Statistic Service (NASS), or a specific period as proposed by the petitioners and certified by the Administrator.

National average price means the average price paid to producers for an agricultural commodity in a marketing year as determined by the Administrator.

Net farm income means net farm profit or loss reported on Internal Revenue Service Schedule F (Form 1040) and Form 4835 for the year that most closely corresponds with the marketing year under consideration.

Person means an individual, partnership, joint stock owner, corporation, association, trust, estate, or any other legal entity as defined in 7 CFR 1400.3.

Producer means a person who is an owner, operator, landlord, tenant, or sharecropper, who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm.

Raw or natural state means unaltered by any process other than cleaning, grading, coating, sorting, trimming, mixing, conditioning, drying, dehulling, shelling, chilling, cooling, blanching or fumigating.

United States means the 50 States of the United States, the District of Columbia, and Puerto Rico.

§ 1580.201 Petitions for trade adjustment assistance.

(a) A group of agricultural commodity producers in the United States or their authorized representative may file a petition for trade adjustment assistance.

(b) Filings may be written or electronic, as provided for by the Administrator, and submitted to FAS from August 17 through January 31. FAS shall not accept a petition received after January 31 but will return it to the sender. If January 31 falls on a weekend, the petition will be accepted the next business day.

(c) Petitions shall include the following information.

(1) Name, business address, phone number, and email address (if available) of each producer in the group, or their authorized representative. A petition filed by a group shall identify a contact person for the group.

(2) The agricultural commodity and its Harmonized Tariff Schedule of the United States (HTS) number.

(3) The production area represented by the group or its authorized representative. The petitioners shall indicate if they are filing on behalf of all producers in the United States, or if they are filing solely on behalf of producers in a specifically identified impacted area. In the latter case, at least one member of the group must reside in each State within the impacted area, or the authorized representative must have members residing in each State within the impacted area.

(4) The beginning and ending dates for the marketing year during which domestic prices were affected by imports. A petition may be filed for only the most recent marketing year for which national average prices are available.

(5) A justification statement explaining why the petitioners should be considered eligible for adjustment assistance.

(6) Price data supporting the petition.

(i) If the petition is filed on behalf of all producers of the agricultural commodity in the United States, the Administrator shall use national average prices compiled by the National Agricultural Statistics Service (NASS), whenever possible. If NASS does not compile price data for the commodity, the petitioners shall provide national average prices for the marketing year under review and for the previous five marketing years, and identify the source of the price series.

(ii) If the petition is filed on behalf of producers in a specifically identified impacted area, the petitioners shall provide national average prices for the impacted area for the marketing year under review and for the previous five marketing years, and identify the source of the price series.

(iii) The Administrator may request petitioners to provide records to support their national average price data.

(d) Once the petition is filed, the Administrator shall determine if it meets the requirements of § 1580.201(c), and if so, publish notice in the **Federal Register** that a petition has been received and that an investigation has begun. The notice shall identify the agricultural commodity, including any like or directly competitive commodities, the marketing year being investigated, the price series being used, and the production area covered by the petition. If the petition does not meet the requirements of § 1580.201(c), the Administrator shall notify as soon as possible the contact person for the group or the authorized representative of the deficiencies.

§ 1580.202 Hearings, petition reviews, and amendments.

(a) If the petitioner, or any other person(s) found by the Administrator to have a substantial interest in the proceedings, submits not later than 10 days after the filing date a request for a hearing, the Administrator shall provide for a public hearing and afford such interested person an opportunity to be present, to produce evidence, and to be heard.

(b) If the petitioner, or any other person(s) having an interest in the proceedings takes issue with any of the information published in the **Federal Register** concerning the petition, they may submit to the Administrator their comments in writing or electronically for consideration by the Administrator not later than 10 days after the filing date.

(c) A producer residing outside the impacted area identified in a petition may file to become a party to the petition by fulfilling the requirements of § 1580.201(c) within 10 days of the filing date. The Administrator may amend the original petition to expand the impacted area and include the additional filer, or consider it a separate filing.

(d) The Administrator shall publish in the **Federal Register** as soon as possible any changes to the original notice resulting from any actions taken under this section.

§ 1580.203 Determination of eligibility and certification by the Administrator.

(a) As soon as practicable after the filing date, but in any event not later than 40 days after that date, the Administrator shall determine whether the petitioners satisfy the following conditions for adjustment assistance.

(1) The national average price for the agricultural commodity for the marketing year under review is equal to or less than 80 percent of the average of the national average prices for the 5 marketing years preceding the most recent marketing year, and

(2) Increases in imports of articles like or directly competitive with the agricultural commodity contributed importantly to the decline in price described in paragraph (a)(1) of this section.

(b) If the Administrator determines that the above conditions have been satisfied, the producers covered by the petition shall be certified as eligible for adjustment assistance.

(c) Upon making a determination, whether affirmative or negative, the Administrator shall promptly publish in the **Federal Register** a summary of the determination, together with the reasons for making the determination.

(d) In addition, the Administrator shall notify producers covered by a certification how to apply for adjustment assistance. Notification methods may include direct mailings to known producers, messages to directly affected producer groups and organizations, electronic communications, internet web site notices, and use of broadcast and print media.

(e) Whenever a group of agricultural producers is certified as eligible for assistance, the Administrator shall use the occasion to notify and inform other producers about the Trade Adjustment Assistance Program and how they may petition for adjustment assistance.

§ 1580.301 Application for trade adjustment assistance.

(a) Only producers covered by a certification of eligibility may apply for adjustment assistance. Producers may request advice from FSA regarding the preparation and submission of their applications.

(b) An eligible producer may submit an application for adjustment assistance at any time after the certification date but not later than 90 days after the certification date. If the 90-day application period ends on a weekend or legal holiday, the producer may apply the following business day.

(c) Applications shall include:

(1) The name and legal address of applicant.

(2) Contact information, *i.e.*, mailing address, phone and email address.

(3) The producer's identification number or Federal Income Tax number.

(4) The amount of the agricultural commodity produced in the most recent marketing year supported by documentation acceptable to FSA.

(d) Upon submitting their application, producers shall be immediately eligible to request trade adjustment technical assistance from the Extension Service at no cost.

(e) Producers able to furnish their applications with all the following certifications shall be eligible for adjustment assistance payments:

(1) Certification that technical assistance from the Extension Service under § 1580.302 has been received.

(2) Certification that cash benefits have not been received under any of the provisions of the Trade Act of 1974, as amended, other than those permitted under this part.

(3) Certification that adjustment assistance payments have not exceeded the $10,000 limitation for the Federal fiscal year.

(4) Certification that net farm income is less than that for the latest year in which no adjustment assistance payment was received.

(5) Certification that their average adjusted gross income, as determined in accordance with 7 CFR 1400.601, for the 3 preceding taxable years does not exceed $2,500,000.

(6) To comply with certifications in paragraphs (e)(4) and (5) of this section, an applicant shall provide either—

(i) Supporting documentation from a certified public accountant or attorney, or

(ii) Relevant documentation and other supporting financial data, such as financial statements, balance sheets, and reports prepared for or provided to the Internal Revenue Service or another U.S. Government agency.

(f) Persons legally authorized to execute program documents for estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

§ 1580.302 Technical assistance and services.

(a) Any producer of an agricultural commodity covered by a certification of eligibility may apply for and receive information and technical assistance from the Extension Service that will assist in adjusting to import competition and be at no cost to the producer.

(b) To qualify for technical assistance, producers shall apply under § 1580.301.

(c) Producers shall have an opportunity to meet at least once with an Extension Service employee within 180 days of petition certification to receive information regarding the feasibility and desirability of substituting one or more alternative commodities for the adversely affected agricultural commodity and to receive technical assistance to lower costs

associated with producing and marketing the adversely affected agricultural commodity. The Extension Service shall provide to producers written confirmation of all technical assistance meetings. Producers shall also have access to technical information provided in writing and electronically.

(d) Producers shall also be provided information concerning procedures for applying for and receiving other Federal assistance and services available to workers facing economic distress.

(e) Producers shall be entitled to employment services and training benefits under trade adjustment assistance for workers managed by the U.S. Department of Labor.

§ 1580.303 Adjustment assistance payments.

(a) Applicants shall satisfy by September 30 all conditions of § 1580.301 to qualify for adjustment assistance payments.

(b) The FSA office shall issue a payment to a producer that is equal to the product of the amount of the agricultural commodity produced in the most recent marketing year multiplied by one-half the difference between—

(1) An amount equal to 80 percent of the average of the national average prices of the agricultural commodity covered by the petition for the 5 marketing years preceding the most recent marketing year, and

(2) The national average price of the agricultural commodity for the most recent marketing year.

(c) The maximum amount of payments under this part that a producer may receive in any 12-month period shall not exceed $10,000.

(d) The total amount of payments made to a producer may not exceed during any crop year the limitation on counter-cyclical payments set forth in section 1001(c) of the Food Security Act of 1985 (7 U.S.C. 1308(c)).

(e) Any person who may be entitled to a payment may assign their rights to such payment in accordance with 7 CFR part 1404 or successor regulations as designated by the Department.

(f) In the case of death, incompetency, disappearance or dissolution of a person that is eligible to receive benefits in accordance with this part, such person or persons specified in 7 CFR part 707 may receive such benefits, as determined appropriate by FSA.

(g) If the Administrator, FAS, determines in September that program funds may be insufficient to meet the requirements for adjustment assistance payments under this part during the coming fiscal year, FSA may suspend adjustment payments until June 16 in order to prorate amounts owed producers.

(h) FSA will not make adjustment assistance payments to producers who have not satisfied the technical assistance requirement.

§ 1580.401 Subsequent qualifying year eligibility.

(a) Prior to the anniversary of a certification date,

(1) Groups and authorized representatives that provided national average prices to justify their initial certifications shall provide the Administrator national average prices for the most recent marketing year, and

(2) The Administrator shall determine whether or not—

(i) The national average price for the agricultural commodity produced by the group for the most recent marketing year is equal to or less than 80 percent of the average of national average prices for the 5 marketing years used to make the first certification under § 1580.203(a)(1), and

(ii) Further increases in imports are contributing importantly to the decline in price.

(b) The Administrator shall promptly publish in the **Federal Register** the determination with supporting justification statement.

(c) In the case of a re-certification, FSA shall notify producers that they may be eligible to receive trade adjustment assistance for a subsequent qualifying year.

(d) To qualify for assistance in subsequent qualifying years, producers shall—

(1) Submit an application pursuant to § 1580.301, and

(2) Contact the Extension Service for technical adjustment assistance.

(e) The amount of an adjustment assistance payment during a qualifying year shall be determined in the same manner as in the originating year, except that the average national price shall be determined by using the 5-marketing-year period used to determine the amount of cash benefits for the first certification.

(f) An eligible producer who did not apply for adjustment assistance in the initial year may apply pursuant to § 1580.301.

§ 1580.501 Administration.

(a) The application process will be administered under the general supervision of the Administrator, FSA, and shall be carried out in the field by State and county FSA committees.

(b) State and county FSA committees and representatives do not have the authority to modify or waive any of the provisions of this part.

(c) The State FSA committee shall take any action required by this part that has not been taken by a county FSA committee. The State FSA committee shall also:

(1) Correct or require a county FSA committee to correct any action taken by such county FSA committee that is not in accordance with this part; and

(2) Require a county FSA committee to withhold taking or reversing any action that is not in accordance with this part.

(d) No delegation in this part to a State or county FSA committee shall prevent the Deputy Administrator from determining any question arising under the program or from reversing or modifying any determination made by a State or county FSA committee.

(e) The Deputy Administrator may authorize the State and county committees to waive or modify non-statutory deadlines or other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect the operation of the program.

§ 1580.502 Maintenance of records, audits and compliance.

(a) Persons making application for benefits under this program must maintain accurate records and accounts that will document that they meet all eligibility requirements specified herein, as may be requested by FSA. Such records and accounts must be retained for 2 years after the date of the final payment to the producer under this program.

(b) At all times during regular business hours, authorized representatives of FSA, the United States Department of Agriculture, or the Comptroller General of the United States shall have access to the premises of the producer in order to inspect, examine, and make copies of the books, records, and accounts, and other written data as specified in paragraph (a) of this section.

(c) Audits of certifications of average adjusted gross income may be conducted as necessary to determine compliance with the requirements of this subpart. As a part of this audit, income tax forms may be requested and if requested, must be supplied. If a producer has submitted information to FSA, including a certification from a certified public accountant or attorney, that relied upon information from a form previously filed with the Internal Revenue Service, such producer shall provide FSA a copy of any amended

form filed with the Internal Revenue Service with 30 days of the filing.

(d) If requested in writing by FSA, the United States Department of Agriculture, or the Comptroller General of the United States, the producer shall provide all information and documentation the reviewing authority determines necessary to verify any information or certification provided under this subpart, including all documents referred to in § 1580.301(c), within 30 days. Acceptable production documentation may be submitted by facsimile, in person, or by mail and may include copies of receipts, ledgers, income statements, deposit slips, register tapes, invoices for custom harvesting, records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the county committee. Failure to provide necessary and accurate information to verify compliance, or failure to comply with this subpart's requirements, will result in ineligibility for all program benefits subject to this subpart for the year or years subject to the request.

(e) All information provided to FSA for the purposes of determining compliance with this part will remain confidential and not be subject to any request submitted under the Freedom of Information Act.

§ 1580.503 Debarment and suspension.

The Government-wide Debarment and Suspension (Nonprocurement) regulations and Government Requirements for Drug-Free Workplace (Grants), 7 CFR part 3017—subparts A through E, apply to this part.

§ 1580.504 Fraud and recovery of overpayments.

(a) If the Administrator, FSA or a court of competent jurisdiction, determines that any person has received any payment under this program to which the person was not entitled, such person will be liable to repay such amount to the Administrator, FSA. The Administrator, FSA may waive such repayment if it is determined that:

(1) The payment was made without fault on the part of the person; and

(2) Requiring such repayment would be contrary to equity and good conscience.

(b) Unless an overpayment is otherwise recovered, or waived under paragraph (a), the Administrator, FSA shall recover the overpayment by deductions from any sums payable to such person.

(c) If the Administrator, FSA, or a court of competent jurisdiction, determines that a person:

(1) Knowingly has made, or caused another to make, a false statement or representation of a material fact, or

(2) Knowingly has failed, or caused another to fail, to disclose a material fact, and, as a result of such false statement or representation, or of such nondisclosure, such person has received any payment under this program to which the person was not entitled, such person shall, in addition to any other penalty provided by law, be ineligible for any further payment under this program.

(d) Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination and an opportunity for a fair hearing has been given to the person concerned, and the determination has become final.

(e) Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payments authorized to be furnished under this program shall be fined not more that $10,000 or imprisoned for not more than 1 year, or both.

§ 1580.505 Appeals.

Any person may obtain reconsideration and review of determinations made with respect to applications for program benefits under this part in accordance with appeal regulations of the 7 CFR part 780.

§ 1580.601 Implementation.

Trade adjustment assistance is available for the most recent marketing year for which prices were available on February 3, 2003.

§ 1580.602 Paperwork Reduction Act assigned number.

The information collection requirements contained in these regulations (7 CFR part 1580) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and been assigned OMB control number xxxx–xxxx.

Dated: April 18, 2003.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 03–10050 Filed 4–22–03; 8:45 am]

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Partnership; noncompensatory options; comments due by 4-29-03; published 1-22-03 [FR 03-00872]
Correction; comments due by 4-29-03; published 4-1-03 [FR C3-00872]

LIST OF PUBLIC LAWS

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H.R. 1559/P.L. 108–11

Emergency Wartime Supplemental Appropriations Act, 2003 (Apr. 16, 2003; 117 Stat. 559)

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