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Title 3—**Proclamation 7737 of November 19, 2003****The President****National Farm-City Week, 2003****By the President of the United States of America****A Proclamation**

During National Farm-City Week, Americans honor the hard work of the men and women who earn a living from the land, and we recognize the importance of their partnerships with urban communities.

Our farmers and ranchers face many challenges, including weather, crop disease, and uncertain pricing. Yet with hard work and a love of the land, they have helped America build the most productive agricultural economy in the world. This industry generates 16 percent of America's Gross Domestic Product and employs 17 percent of our workforce.

Our farmers and ranchers build and sustain this industry with the help of others. While farmers and ranchers manage almost half of our Nation's land, they need processors, shippers, retailers, food service providers, and many others to move their products from the farm to the homes of Americans and people around the world. As these cooperative networks provide us with food, clothing, and energy, they help to create a prosperous future for America and the world.

As we celebrate National Farm-City Week, I urge citizens to learn more about the American farm-city partnership and how it strengthens our country.

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 November 21 through November 27, 2003, as National Farm-City Week. I encourage all Americans to join in recognizing the hard work, entrepreneurship, and ingenuity of those who produce and promote America's agricultural goods.

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



Rules and Regulations

Federal Register

Vol. 68, No. 225

Friday, November 21, 2003

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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Docket No. FV04-984-1 IFR]

Walnuts Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule decreases the assessment rate established for the Walnut Marketing Board (Board) for the 2003-04 and subsequent marketing years from \$0.0120 to \$0.0101 per kernelweight pound of assessable walnuts. The decreased assessment rate should generate sufficient income to meet the Board's 2003-04 anticipated expenses of \$2,863,350. The lower assessment rate is primarily due to a lower budget and a larger crop. The Board locally administers the marketing order (order) which regulates the handling of walnuts grown in California. Authorization to assess walnut handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The marketing year began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective November 24, 2003. Comments received by January 20, 2004, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250-0237; Fax: (202) 720-8938, or E-mail:

moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Marketing Assistant, or Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 984, both as amended (7 CFR part 984), regulating the handling of walnuts grown in California, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California walnut handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable walnuts beginning on August 1, 2003, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, or policies,

unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule decreases the assessment rate established for the Board for the 2003-04 and subsequent marketing years from \$0.0120 to \$0.0101 per kernelweight pound of assessable walnuts.

The order provides authority for the Board, with the approval of the USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of California walnuts. They are familiar with the Board's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2002-03 and subsequent marketing years, the Board recommended, and USDA approved, an assessment rate of \$0.0120 per kernelweight pound of assessable walnuts that would continue in effect from year to year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other information available to USDA.

The Board met on September 12, 2003, and unanimously recommended 2003-04 expenditures of \$2,863,350 and

an assessment rate of \$0.0101 per kernelweight pound of assessable walnuts. In comparison, last year's budgeted expenditures were \$2,970,000. The assessment rate of \$0.0101 is \$0.0019 lower than the \$0.0120 rate currently in effect. The lower assessment rate is necessary because this year's crop is estimated by the California Agricultural Statistics Service (CASS) to be 315,000 tons (283,500,000 kernelweight pounds merchantable), and the budget is about 4 percent less than last year's budget. Sufficient income should be generated at the lower rate for the Board to meet its anticipated expenses.

Major categories in the budget recommended by the Board for 2003–04 include \$2,348,000 for program expenses, which includes marketing and production research projects, the salary for the production research director, the cost of the Board's crop acreage survey and production estimate, and compliance purchases, \$334,625 for employee expenses such as administrative and office salaries, payroll taxes and workers compensation, and other employee benefits, \$83,000 for office expenses, such as rent, office supplies, telephone, fax, postage, printing, equipment maintenance, and furniture, \$82,000 for other operating expenses, such as management travel, field travel, Board expenses, general insurance, and financial audits, and \$15,725 as a reserve for contingencies. Budgeted expenses for these items in 2002–03 were \$2,438,403, \$333,100, \$80,500, \$79,500, and \$38,497, respectively.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected shipments of California walnuts certified as merchantable. Merchantable shipments for the year are estimated at 283,500,000 kernelweight pounds which should provide \$2,863,350 in assessment income and allow the Board to cover its expenses. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within 5 months after the end of the year, according to § 984.69.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and other information submitted by the Board or other available information.

Although this assessment rate is effective for an indefinite period, the Board will continue to meet prior to or during each marketing year to

recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or USDA. Board meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Board's 2003–04 budget and those for subsequent marketing years will be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 5,800 producers of walnuts in the production area and about 43 handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those having annual receipts of less than \$5,000,000.

Current industry information shows that 14 of the 43 handlers (32.5 percent) shipped over \$5,000,000 of merchantable walnuts and could be considered large handlers by the Small Business Administration. Twenty-nine of the 43 walnut handlers (67.5 percent) shipped under \$5,000,000 of merchantable walnuts and could be considered small handlers. An estimated 58 walnut producers, or about 1 percent of the 5,800 total producers, would be considered large producers with annual incomes over \$750,000. Based on the foregoing, it can be concluded that the majority of California walnut handlers and producers may be classified as small entities.

This rule decreases the assessment rate established for the Board and collected from handlers for the 2003–04 and subsequent marketing years from \$0.0120 to \$0.0101 per kernelweight pound of assessable walnuts. The Board unanimously recommended 2003–04 expenditures of \$2,863,350. The decreased assessment rate should generate sufficient income to meet the Board's 2003–04 anticipated expenses. The lower assessment rate is primarily due to a lower budget and a larger crop.

Major categories in the budget recommended by the Board for 2003–04 include \$2,348,000 for program expenses, which includes marketing and production research projects, the salary for the production research director, the cost of the Board's crop acreage survey and production estimate, and compliance purchases, \$334,625 for employee expenses such as administrative and office salaries, payroll taxes and workers compensation, and other employee benefits, \$83,000 for office expenses, such as rent, office supplies, telephone, fax, postage, printing, equipment maintenance, and furniture, \$82,000 for other operating expenses, such as management travel, field travel, Board expenses, general insurance, and financial audits, and \$15,725 as a reserve for contingencies. Budgeted expenses for these items in 2002–03 were \$2,438,403, \$333,100, \$80,500, \$79,500, and \$38,497, respectively.

Prior to arriving at this budget, the Board considered information from various sources, such as the Board's Budget and Personnel Committee, Research Committee, and Marketing Development Committee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the walnut industry. The recommended \$0.0101 per kernelweight pound assessment rate was then determined by dividing the total recommended budget by the 283,500,000 kernelweight pound estimate of assessable walnuts for the year. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within 5 months after the end of the year according to § 984.69.

A review of historical information and preliminary information pertaining to the current marketing year indicates that the grower price for 2003–04 could range between \$0.50 and \$0.70 per kernelweight pound of assessable walnuts. Therefore, the estimated assessment revenue for the 2003–04 marketing year as a percentage of total

grower revenue could range between 1.4 and 2 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Board's meeting was widely publicized throughout the walnut industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the September 12, 2003, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large California walnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2003–04 marketing year began on August 1, 2003, and the order requires that the rate of assessment for each marketing year apply to all merchantable walnuts handled during the year; (2) this action decreases the assessment rate for

merchantable California walnuts; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 984

Walnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 984.347 is revised to read as follows:

§ 984.347 Assessment rate.

On and after August 1, 2003, an assessment rate of \$0.0101 per kernelweight pound is established for California merchantable walnuts.

Dated: November 14, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–29061 Filed 11–20–03; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (“Appliance Labeling Rule”)

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (“Commission”) announces that the current ranges of comparability for refrigerators, refrigerator-freezers, and freezers will remain in effect until further notice.

EFFECTIVE DATES: February 19, 2004.

FOR FURTHER INFORMATION CONTACT:

Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580, (202–326–2889); hnewsome@ftc.gov.

SUPPLEMENTARY INFORMATION: The Rule was issued by the Commission in 1979,

44 FR 66466 (Nov. 19, 1979), in response to a directive in the Energy Policy and Conservation Act of 1975 (“EPCA”).¹ The Rule covers several categories of major household appliances including refrigerators, refrigerator-freezers, and freezers.

I. Background

The Rule requires manufacturers of all covered appliances to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an “EnergyGuide” label, fact sheets (for some appliances), and in catalogs. The Rule requires manufacturers to include, on labels and fact sheets, an energy consumption or efficiency figure and a “range of comparability.” This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of other models similar to the labeled model. The Rule also requires manufacturers to include, on labels for some products, including those that are the subject of this notice, a secondary energy usage disclosure in the form of an estimated annual operating cost based on a specified DOE national average cost for the fuel the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report certain information annually to the Commission by specified dates for each product type.² These reports, which are to assist the Commission in preparing the ranges of comparability, contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information on labels consistent with these changes, the Commission will publish new ranges if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission

¹ 42 U.S.C. 6294. The statute also requires the Department of Energy (“DOE”) to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

² Reports for refrigerators, refrigerator-freezers, and freezers are due August 1.

will publish a statement that the prior ranges remain in effect for the next year.

II. 2003 Refrigerator Information

The annual submissions of data for refrigerators, refrigerator-freezers, and freezers have been made and analyzed by the Commission. The ranges of comparability for the products have not changed significantly for these products.³ Therefore, the current ranges for these products (16 CFR part 305, Appendices A1 through A8 and B1 through B3) will remain in effect until further notice.⁴

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03-29101 Filed 11-20-03; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. 1998F-0522]

Food Additives Permitted in Feed and Drinking Water of Animals; Formaldehyde

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for food additives permitted in feed to provide for the safe use of formaldehyde to improve the handling characteristics of canola and soybean oilseeds and/or meals in feed for beef and dairy cattle, and to provide a description of the food additive. This action is in response to a food additive petition filed by Rumentek Industries Pty Ltd.

DATES: This rule is effective November 21, 2003. Submit written objections and

³ The Commission's analysis excluded models with energy consumption figures that do not meet the current DOE energy conservation standards. See 62 FR 23102 (April 28, 1997).

⁴ See November 19, 2001 (66 FR 57867), November 26, 2001, (66 FR 59050), December 10, 2001 (66 FR 63749), and January 29, 2002 (67 FR 4173).

request for hearing by January 20, 2004. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR 51 of certain publications in 21 CFR 573.460 as of November 21, 2003.

ADDRESSES: Submit written objections and request for hearing to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit objections electronically to <http://www.fda.gov/dockets/ecomments>.

FOR FURTHER INFORMATION CONTACT:

Karen Ekelman, Center for Veterinary Medicine (HFV-222), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-6653, e-mail: kekelman@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of August 11, 1998 (63 FR 42856), FDA announced that a food additive petition (animal use) (FAP 2241) had been filed by Rumentek Industries Pty Ltd., 63-69 Market St., South Melbourne, Vic 3205 Australia. The petition proposed to amend the food additive regulations in part 573 (21 CFR part 573) to provide for the safe use of formaldehyde to improve the handling characteristics of soybean and canola oilseeds and/or meals in feeds for beef and dairy cattle. The notice of filing provided for a 60-day comment period on the petitioner's environmental assessment. No substantive comments have been received.

In the regulation in § 571.1(c) (21 CFR 571.1(c)), paragraph E of the form for petitions requires full reports of investigations of the safety of a food additive. The Center for Veterinary Medicine (CVM) evaluated information in the petition and in the scientific literature and has determined that the use of formaldehyde to improve the handling characteristics of soybean and canola oilseeds and/or meals in feeds for beef and dairy cattle is safe under the conditions of use prescribed in the amended regulation (§ 573.460).

II. Conclusion

FDA concludes that the data establish the safety and utility of formaldehyde for use as proposed and that the food additive regulations should be amended as set forth in this document.

III. Public Disclosure

In accordance with § 571.1(h), the petition and the documents that FDA considered and relied upon in reaching

its decision to approve the petition are available for inspection at the CVM by appointment with the information contact person listed previously. As provided in § 571.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Impact

The agency has determined under 21 CFR 25.32(r) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Objections and Hearing Requests

Any person who will be adversely affected by this regulation may file with the Division of Dockets Management (see **ADDRESSES**) written objections (see **DATES**). Each objection must be separately numbered, and each numbered objection must specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested must state that a hearing is requested. Failure to request a hearing for any particular objection will constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested must include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection will constitute a waiver of the right to a hearing on the objection. Three copies of all documents must be submitted and must be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 573

Animal feeds, Food additives, Incorporation by reference.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 573 is amended as follows:

**PART 573—FOOD ADDITIVES
PERMITTED IN FEED AND DRINKING
WATER OF ANIMALS**

■ 1. The authority citation for 21 CFR part 573 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

■ 2. Section 573.460 is amended by revising paragraph (a) to read as follows:

§ 573.460 Formaldehyde.

* * * * *

(a) The additive is used, or intended for use, to improve the handling characteristics of fat by producing a dry, free-flowing product, as follows:

(1) For animal fat in combination with certain oilseed meals, as a component of dry, nonpelletted feeds for beef and nonlactating dairy cattle.

(i) An aqueous blend of soybean and sunflower meals in a ratio of 3:1, respectively, is mixed with animal fat such that the oilseed meals and animal fat are in a ratio of 3:2. The feed ingredients are those defined by the "Official Publication" of the Association of American Feed Control Officials, Inc., 2003 ed., pp. 303, 308, and 309, which is incorporated by reference. The Director of the Office of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies from the Assistant Secretary-Treasurer, Association of American Feed Control Officials Inc., P.O. Box 478, Oxford, IN 47971, or you may examine a copy at the Division of Dockets Management, Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(ii) Formaldehyde (37 percent solution) is added to the mixture at a level of 4 percent of the dry matter weight of the oilseed meals and animal fat. This mixture, upon drying, contains not more than 1 percent formaldehyde and not more than 12 percent moisture.

(iii) To assure the safe use of the additive, in addition to the other information required by the Federal Food, Drug, and Cosmetic Act (the act), the label and labeling of the dried mixture shall bear:

(A) The name of the additive.

(B) Adequate directions for use providing that the feed as consumed does not contain more than 25 percent of the mixture.

(2) For soybean and canola seeds and/or meals to which there may be added vegetable oil as a component of dry, nonpelletted feeds for beef and dairy cattle, including lactating dairy cattle.

(i) An aqueous blend of oilseed and/or meals, with or without added vegetable oil, in a ratio such that, on a dry matter basis, the final protein level will be 25 to 35 percent and the fat content will be 20 to 45 percent. The feed ingredients are those defined by the "Official Publication" of the Association of American Feed Control Officials, Inc., 2003 ed., pp. 301, 307, 308, and 309, which is incorporated by reference. The Director of the Office of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies from the Assistant Secretary-Treasurer, Association of American Feed Control Officials Inc., P.O. Box 478, Oxford, IN 47971, or you may examine a copy at the Division of Dockets Management, Food and Drug Administration, 5630 Fishers lane, rm. 1061, Rockville, MD 20852, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(ii) Formaldehyde (37 percent solution) is added to the mixture at a level of 2.7 percent of the dry matter weight basis of the oilseeds and/or meals and the vegetable oil. This mixture, upon drying, contains not more than 0.5 percent formaldehyde and not more than 12 percent moisture.

(iii) To assure the safe use of the additive, in addition to the other information required by the act, the label and labeling of the dried mixture shall bear:

(A) The name of the additive.

(B) The statement, "This supplement is not to exceed 12.5% of the total ration. Dietary calcium and magnesium levels should be considered when supplementing the diet with fat."

(C) The minimum and maximum levels of crude fat must be guaranteed and must be between -5 percent and +5 percent of the analyzed fat content for each batch.

* * * * *

Dated: November 7, 2003.

Linda Tollefson,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 03-29069 Filed 11-20-03; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF STATE

22 CFR Part 126

[Public Notice 4538]

RIN 1400-ZA04

Amendment to the International Traffic in Arms Regulations: Lifting of National Union for the Total Independence of Angola Embargo and Partial Lifting of Denial Policy Against Iraq

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends the International Traffic in Arms Regulations (ITAR) by removing Angola from the list of proscribed countries. Also, this rule partially lifts the denial policy regarding Iraq and removes Iraq as a country supporting acts of international terrorism.

DATES: November 21, 2003. Comments will be accepted at any time.

ADDRESSES: Interested parties are invited to submit written comments to the Department of State, Directorate of Defense Trade Controls, Office of Defense Trade Controls Management, ATTN: Regulatory Change, Angola and Iraq, 12th Floor, SA-1, Washington, DC 20522-0112.

FOR FURTHER INFORMATION CONTACT: Mary Sweeney, Office of Defense Trade Controls Management, Bureau of Political-Military Affairs, Department of State (202) 663-2700.

SUPPLEMENTARY INFORMATION: The President issued Executive Order 12865 (September 26, 1993) giving domestic effect to United Nations Security Council Resolution (UNSCR) 864 (September 15, 1993). As a result of the National Union for the Total Independence of Angola's (UNITA) military actions, the situation in Angola constituted a threat to international peace and security. All license applications and other requests for approvals authorizing the export or transfer of defense articles or services to Angola already had been subjected to a presumption of denial for lethal articles by **Federal Register** notice of July 2, 1993. In accordance with UNSCR 864, all license applications and other requests for approval authorizing the export or transfer of defense articles or services to UNITA were then subjected to a denial policy by **Federal Register** notice of April 4, 1994. Effective April 4, 1994, section 126.1 of the ITAR was amended to add the embargo against UNITA.

UNSCR 1448 of December 9, 2002, decided that the arms embargo imposed

by Resolution 864 (1993) shall cease to have effect. The President issued Executive Order 13298 of May 6, 2003, giving domestic effect to UNSCR 1448 and revoked Executive Order 12865. As a result, all license applications and other requests for approval authorizing the export or transfer of defense articles or services to Angola will be reviewed on a case-by-case basis, as is true of all other license applications.

Executive Order 12722 of August 2, 1990, and Executive Order 12724 of August 9, 1990, imposed an export embargo on Iraq. Also, Iraq was added to the proscribed destination list at section 126.1 of the ITAR on October 29, 1991, because it provided support for acts of international terrorism (56 FR 55630). Section 1503 of the Emergency Wartime Supplemental Appropriations Act 2003 (Pub. L. 108-11) (the Act) authorizes the President to suspend the Iraq Sanctions Act and to make inapplicable with respect to Iraq section 620A of the FAA and any other provision of law that applies to countries that have supported terrorism. Section 1504 of the Act authorized the export to Iraq of any nonlethal military equipment if the President determines and notifies within 5 days to applicable Congressional committees that the export of such nonlethal military equipment is in the national interest of the United States. However, this limitation regarding nonlethal military equipment does not apply for use by a reconstituted (or interim) Iraqi military or police force. Paragraph (d) of section 126.1 removes Iraq as a country identified as supporting acts of international terrorism in accordance with the "Determination and Certification Under Section 40A of the Arms Export Control Act" (68 FR 28041, May 15, 2003). Further, paragraph (f) of section 126.1 is amended to address the partial lifting of the denial policy with regard to Iraq.

Also, this rule will remove from § 126.1(a) of the ITAR the use of an exemption § 125.4(b)(13) for technical data approved for public release by the cognizant U.S. Government department or agency or Directorate for Freedom of Information and Security Review to be exported to a proscribed country without a license.

This amendment involves a foreign affairs function of the United States and therefore, is not subject to the procedures required by 5 U.S.C. 553 and 554. It is exempt from review under Executive Order 12866 but has been reviewed internally by the Department to ensure consistency with the purposes thereof. This rule does not require analysis under the Regulatory

Flexibility Act or the Unfunded Mandates Reform Act.

It has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Act of 1996. It will not have substantial direct effects on the States, the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant application of Executive Orders 12372 and 13123.

List of Subjects in 22 CFR Part 126

Arms and munitions, Exports.

■ Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, Part 126, is amended as follows:

PART 126—GENERAL POLICIES AND PROVISIONS

■ 1. The authority citation for Part 126 continues to read as follows:

Authority: Secs. 2, 38, 40, 42, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); 22 U.S.C. 2778; E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 2658; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899.

■ 2. Section 126.1 is amended by revising paragraphs (a), (d) and (f) to read as follows:

§ 126.1 Prohibited exports and sales to certain countries.

(a) *General.* It is the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in certain countries. This policy applies to Belarus, Cuba, Iran, Libya, North Korea, Syria, and Vietnam. This policy also applies to countries with respect to which the United States maintains an arms embargo (e.g., Burma, China, Haiti, Liberia, Somalia, Sudan and Democratic Republic of the Congo (formerly Zaire)) or whenever an export would not otherwise be in furtherance of world peace and the security and foreign policy of the United States. Information regarding certain other embargoes appears elsewhere in this section. Comprehensive arms embargoes are normally the subject of a State Department notice published in the **Federal Register**. The exemptions provided in the regulations in this subchapter, except § 123.17 of this subchapter, do not apply with respect to articles originating in or for export to

any proscribed countries, areas, or persons in this § 126.1.

* * * * *

(d) *Terrorism.* Exports to countries which the Secretary of State has determined to have repeatedly provided support for acts of international terrorism are contrary to the foreign policy of the United States and are thus subject to the policy specified in paragraph (a) of this section and the requirements of section 40 of the Arms Export Control Act (22 U.S.C. 2780) and the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 (22 U.S.C. 4801, note). The countries in this category are: Cuba, Iran, Libya, North Korea, Sudan and Syria.

* * * * *

(f) *Iraq.* It is the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in Iraq except for any nonlethal military equipment or lethal military equipment for use in support of a reconstituted (or interim) Iraqi military or police force required by the Coalition Provisional Authority in accordance with section 1504 of Public Law 108-11, Emergency Wartime Supplemental Appropriations Act, 2003.

* * * * *

Dated: October 11, 2003.

John R. Bolton,
Under Secretary, Arms Control and International Security, Department of State.
 [FR Doc. 03-29158 Filed 11-20-03; 8:45 am]
BILLING CODE 4710-25-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9095]

RIN 1545-BA91

Transfers To Provide for Satisfaction of Contested Liabilities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains regulations relating to transfers of money or other property to provide for the satisfaction of contested liabilities. The regulations affect taxpayers that are contesting an asserted liability and that transfer their own stock or indebtedness, the stock or indebtedness of a related party, or a promise to

provide services or property in the future, to provide for the satisfaction of the liability prior to the resolution of the contest. The regulations also affect taxpayers that transfer money or other property to a trust, an escrow account, or a court to provide for the satisfaction of a liability for which payment is economic performance. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective November 19, 2003.

Applicability Dates: For dates of applicability, see § 1.461-2T(g).

FOR FURTHER INFORMATION CONTACT:

Norma Rotunno, (202) 622-7900 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 461(f) of the Internal Revenue Code (Code) relating to the transfer of money or other property to provide for the satisfaction of an asserted liability that a taxpayer is contesting. Section 461(f) provides an exception to the general rules of tax accounting by allowing a taxpayer to deduct a contested liability in a year prior to the resolution of the contest if the following conditions are met: (1) The taxpayer contests an asserted liability, (2) the taxpayer transfers money or other property to provide for the satisfaction of the asserted liability, (3) the contest with respect to the asserted liability exists after the time of transfer, and (4) but for the fact that the asserted liability is contested, a deduction would be allowed for the taxable year of the transfer (or for an earlier taxable year) determined after the application of the economic performance rules. If these requirements are satisfied, a taxpayer may deduct the liability in the taxable year of the transfer.

Section 461(f)(2) requires the taxpayer to transfer money or other property to provide for the satisfaction of the asserted liability. Neither the statute nor the regulations specifically define *money or other property*. The examples in the regulations and the legislative history involve only transfers of cash.

Under § 1.461-2(c)(1) of the Income Tax Regulations, a transfer for the satisfaction of an asserted liability is a transfer of money or other property beyond the taxpayer's control to: (1) The person asserting the liability, (2) an

escrowee or trustee pursuant to a written agreement (among the escrowee or trustee, the taxpayer, and the person who is asserting the liability) providing that the money or other property be delivered in accordance with the settlement of the contest, (3) an escrowee or trustee pursuant to an order of a court or government entity providing that the money or other property be delivered in accordance with the settlement of the contest, or (4) a court with jurisdiction over the contest. The taxpayer must relinquish all authority over the money or other property transferred.

To qualify for a deduction, section 461(f)(4) provides that a deduction is allowed in the taxable year of the transfer only if, but for the fact that the asserted liability is contested, a deduction would be allowed for the taxable year of the transfer (or for an earlier taxable year) A determined after application of subsection (h).” Congress added the quoted language to section 461(f)(4) when Congress enacted section 461(h), which provides, for amounts with respect to which a deduction would be allowable after July 18, 1984, that the all events test is not met any earlier than when economic performance has occurred with respect to the liability. Section 461(h)(2)(C) provides that payment to another person is required to satisfy economic performance for liabilities arising out of any workers compensation act or any tort. The Conference Report accompanying enactment of section 461(h) explains the impact of the economic performance requirement on trusts established under section 461(f):

In the case of workers' compensation or tort liabilities of the taxpayer requiring payments to another person, economic performance occurs as payments are made to that person. Since payment to a section 461(f) trust is not a payment to the claimant and does not discharge the taxpayer's liability to the claimant, such payment does not satisfy the economic performance test.

H. R. Rep. No. 861, 98th Cong., 2d Sess. 871, 876 (1984).

For transfers in taxable years beginning after December 31, 1991, § 1.461-4(g)(2)-(7) expands the list of liabilities for which payment to the person “to which the liability is owed” constitutes economic performance (payment liabilities). The additional payment liabilities listed in § 1.461-4(g)(2)-(6) include liabilities for breach of contract (to the extent of incidental, consequential, and liquidated damages) or violation of law, rebates and refunds, awards, prizes, jackpots, insurance, warranty and service contracts, and taxes. In addition, § 1.461-4(g)(7)

characterizes as payment liabilities other liabilities for which other specific rules are not provided.

Section 1.461-4(g)(1)(ii)(A) provides that payment does not include the furnishing of a note or other evidence of indebtedness of the taxpayer.

Section 1.461-4(g)(1)(i) provides that, for liabilities for which payment is economic performance, economic performance does not occur as a taxpayer makes payments in connection with a liability to any other person, including a trust, escrow account, court-administered fund, or any similar arrangement, unless the payments constitute payment to the person to which the liability is owed under paragraph (g)(1)(ii)(B). Section 1.461-4(g)(1)(ii)(B) states that payment is accomplished if a cash basis taxpayer in the position of the person to which the liability is owed would be treated as having actually or constructively received the amount of the payment as gross income under section 451.

Explanation of Provisions

Transfers of Property To Provide for the Satisfaction of an Asserted Liability

The regulations remove § 1.461-2(c)(1) and add § 1.461-2T(c)(1). The temporary regulations restructure the provisions of current § 1.461-2(c)(1) for greater clarity but retain all of the rules in § 1.461-2(c)(1), including the requirement that the taxpayer must transfer money or other property beyond the taxpayer's control and relinquish all authority over the money or other property transferred. The temporary regulations clarify that the transfer of the indebtedness of a taxpayer or of any promise by the taxpayer to provide services or property in the future is not a transfer to provide for the satisfaction of an asserted liability. See *Eckert v. Burnet*, 283 U.S. 140 (1931); *Willamette Industries, Inc., v. Commissioner*, 92 T.C. 1116 (1989), aff'd, 149 F. 3d 1057 (9th Cir. 1998). In addition, the temporary regulations provide the express rule that a transfer (other than to the person asserting the liability) of a taxpayer's stock, or the indebtedness or stock of a person related to the taxpayer (as defined in section 267(b)), is not a transfer to provide for the satisfaction of an asserted liability. These rules are consistent with section 468B(d)(1)(B), which excludes as a qualified payment to a designated settlement fund the transfer of any stock or indebtedness of the taxpayer (or any related person). See § 1.461-4(g)(1)(ii)(A), which provides that payment does not include the furnishing of a note or other evidence of

indebtedness of the taxpayer or a promise of the taxpayer to provide services or property in the future.

Economic Performance Rules for Payment Liabilities

Section 1.461-4(g) provides that economic performance occurs in the case of a liability requiring payment to another person arising out of a workers compensation act, tort, or other designated liability as payments are made to the person to which the liability is owed. Therefore, the temporary regulations provide in § 1.461-2T(e)(2) that, except as provided in section 468B or the regulations thereunder, economic performance does not occur when a taxpayer transfers money or other property to a trust, escrow account, or court to provide for the satisfaction of a contested workers compensation, tort, or other liability designated in § 1.461-4(g) unless the trust, escrow account, or court is the claimant or the taxpayer's payment to the trust, escrow account, or court discharges the taxpayer's liability to the claimant. See *Maxus Energy Corporation and Subsidiaries v. United States*, 31 F.3d 1135 (Fed. Cir. 1994). Rather, economic performance occurs in the taxable year in which the taxpayer transfers money or other property to the person asserting the liability that the taxpayer is contesting, or in the taxable year in which payment from the trust, escrow account, or court registry is made to the person to which the liability is owed.

Effective Date

In general, the temporary regulations apply to transfers made in taxable years beginning after December 31, 1953, and ending after August 16, 1954. However, the temporary regulations apply to transfers of any stock of the taxpayer or any stock or indebtedness of a related person on or after November 19, 2003. Section 1.461-2T(e)(2)(i) applies to transfers of money or other property after July 18, 1984, the effective date of section 461(h). Similarly, § 1.461-2T(e)(2)(ii) applies to transfers of money or other property after July 18, 1984, to satisfy workers compensation or tort liabilities, and applies to transfers of money or other property in taxable years beginning after December 31, 1991, the effective date of § 1.461-4(g), to satisfy payment liabilities designated under § 1.461-4(g) (other than liabilities for workers compensation or tort).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in

Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Please refer to the cross-referenced notice of proposed rulemaking published elsewhere in this issue of the **Federal Register** for applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Norma Rotunno of the Office of the Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

■ 2. Section 1.461-2 is amended by:

- 1. Removing paragraph (a)(5).
- 2. Revising paragraph (c)(1).
- 3. Redesignating paragraph (e)(2) as paragraph (e)(3) and revising it.
- 4. Adding new paragraph (e)(2).

The addition and revisions read as follows:

§ 1.461-2 Contested liabilities.

* * * * *

(c) * * *

(1) [Reserved]. For further guidance, see § 1.461-2T(c)(1).

* * * * *

(e) * * *

(2) [Reserved]. For further guidance, see § 1.461-2T(e)(2).

(3) *Examples.* The provisions of this paragraph are illustrated by the following examples:

Example 1. A, an individual, makes a gift of certain property to B, an individual. A pays the entire amount of gift tax assessed against him but contests his liability for the tax. Section 275(a)(3) provides that gift taxes are not deductible. A does not satisfy the requirement of paragraph (a)(1)(iv) of this section because a deduction would not be

allowed for the taxable year of the transfer even if A did not contest his liability to the tax.

Example 2. [Reserved]. For further guidance, see § 1.461-2T(e)(3), *Example 2.*

* * * * *

■ 4. Section 1.461-2T is added to read as follows:

§ 1.461-2T Contested liabilities (temporary).

(a) and (b) [Reserved]. For further guidance, see § 1.461-2(a) and (b).

(c) *Transfer to provide for the satisfaction of an asserted liability—(1) In general.* (i) A taxpayer may provide for the satisfaction of an asserted liability by transferring money or other property beyond his control to—

(A) The person who is asserting the liability;

(B) An escrowee or trustee pursuant to a written agreement (among the escrowee or trustee, the taxpayer, and the person who is asserting the liability) that the money or other property be delivered in accordance with the settlement of the contest;

(C) An escrowee or trustee pursuant to an order of the United States or of any State or political subdivision thereof or any agency or instrumentality of the foregoing, or of a court, that the money or other property be delivered in accordance with the settlement of the contest; or

(D) A court with jurisdiction over the contest.

(ii) In order for money or other property to be beyond the control of a taxpayer, the taxpayer must relinquish all authority over the money or other property.

(iii) The following are not transfers to provide for the satisfaction of an asserted liability—

(A) Purchasing a bond to guarantee payment of the asserted liability;

(B) An entry on the taxpayer's books of account;

(C) A transfer to an account that is within the control of the taxpayer;

(D) A transfer of any indebtedness of the taxpayer or of any promise by the taxpayer to provide services or property in the future; and

(E) A transfer to a person (other than the person asserting the liability) of any stock of the taxpayer or of any stock or indebtedness of a person related to the taxpayer (as defined in section 267(b)).

(c)(2) through (d) [Reserved]. For further guidance, see § 1.461-2(c)(2) through (d).

(e) *Deduction otherwise allowed—(1) [Reserved].* For further guidance, see—

§ 1.461-2(e)(1).
(2) *Application of economic performance rules to transfers under*

section 461(f). (i) A taxpayer using an accrual method of accounting is not allowed a deduction under section 461(f) in the taxable year of the transfer unless economic performance has occurred.

(ii) Economic performance occurs for liabilities requiring payment to another person arising out of any workers compensation act or any tort, or any other liability designated in § 1.461-4(g), as payments are made to the person to which the liability is owed. Except as provided in section 468B or the regulations thereunder, economic performance does not occur when a taxpayer transfers money or other property to a trust, an escrow account, or a court to provide for the satisfaction of an asserted workers compensation, tort, or other liability designated under § 1.461-4(g) that the taxpayer is contesting unless the trust, escrow account, or court is the person to which the liability is owed or the taxpayer's payment to the trust, escrow account, or court discharges the taxpayer's liability to the claimant. Rather, economic performance occurs in the taxable year the taxpayer transfers money or other property to the person that is asserting the workers compensation, tort, or other liability designated under "§ 1.461-4(g) that the taxpayer is contesting or in the taxable year that payment is made from a trust, an escrow account, or a court registry funded by the taxpayer to the person to which the liability is owed.

(3) *Examples.* The provisions of this paragraph (e) are illustrated by the following examples:

Example 1. [Reserved]. For further guidance, see § 1.461-2(e)(3), *Example 1.*

Example 2. Corporation X is a defendant in a class action suit for tort liabilities. In 2002, X establishes a trust for the purpose of satisfying the asserted liability and transfers \$10,000,000 to the trust. The trust does not satisfy the requirements of section 468B or the regulations thereunder. In 2004, the trustee pays \$10,000,000 to the plaintiffs in settlement of the litigation. Under paragraph (e)(2) of this section, economic performance with respect to X's liability to the plaintiffs occurs in 2004. X may deduct the \$10,000,000 payment to the plaintiffs in 2004.

(f) [Reserved]. For further guidance, see § 1.461-2(f).

(g) *Effective date.* (1) Except as otherwise provided, this section applies to transfers of money or other property in taxable years beginning after December 31, 1953, and ending after August 16, 1954.

(2) Paragraph (c)(1)(iii)(E) of this section applies to transfers of any stock of the taxpayer or any stock or indebtedness of a person related to the taxpayer on or after November 19, 2003.

(3) Paragraph (e)(2)(i) of this section applies to transfers of money or other property after July 18, 1984.

(4) Paragraphs (e)(2)(ii) and (e)(3) of this section apply to—

(i) Transfers after July 18, 1984, of money or other property to provide for the satisfaction of an asserted workers compensation or tort liability; and

(ii) Transfers in taxable years beginning after December 31, 1991, of money or other property to provide for the satisfaction of asserted liabilities designated in § 1.461-4(g) (other than liabilities for workers compensation or tort).

Approved: November 12, 2003.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: November 12, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03-29161 Filed 11-19-03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA107-OPP-FRL-7589-8]

Final Approval of Revision of 34 Clean Air Act Title V Operating Permits Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision of the following 34 Clean Air Act (CAA) title V Operating Permits Programs in the State of California: Amador County Air Pollution Control District (APCD), Bay Area AQMD, Butte County AQMD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Glenn County APCD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lake County AQMD, Lassen County APCD, Mariposa County APCD, Mendocino County APCD, Modoc County APCD, Mojave Desert AQMD, Monterey Bay Unified APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Sacramento Metro AQMD, San Diego County APCD, San Joaquin Valley Unified APCD, San Luis Obispo County APCD, Santa Barbara County APCD, Shasta County APCD, Siskiyou County APCD, South Coast AQMD, Tehama County APCD,

Tuolumne County APCD, Ventura County APCD, and Yolo-Solano AQMD.

EFFECTIVE DATE: This action will become effective on January 1, 2004.

ADDRESSES: Copies of the documentation in the administrative record for this action are available for inspection during normal business hours at Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105.

FOR FURTHER INFORMATION CONTACT: Gerardo Rios, EPA Region 9, Air Division, Permits Office (AIR-3), at (415) 972-3974 or rios.gerardo@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us," or "our" means EPA.

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- II. Comments received by EPA on our proposed rulemaking and EPA's responses
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I. Background

Title V of the CAA Amendments of 1990 required all State permitting authorities to develop operating permits programs that met certain federal criteria codified at 40 Code of Federal Regulations (CFR) part 70. On November 30, 2001, we promulgated final full approval of 34 California districts' title V operating permits programs. See 66 FR 63503 (December 7, 2001). Our final rulemaking was challenged by several environmental and community groups alleging that the full approval was unlawful based, in part, on an exemption in section 42310(e) of the California Health and Safety Code of major agricultural sources from title V permitting. EPA entered into a settlement of this litigation which required, in part, that the Agency propose to partially withdraw approval of the 34 fully approved title V programs in California.

Sections 70.10(b) and 70.10(c) provide that EPA may withdraw a 40 CFR part 70 program approval, in whole or in part, whenever the permitting authority's legal authority does not meet the requirements of part 70 and the permitting authority fails to take corrective action. To commence regulatory action to partially withdraw title V program approval, EPA published a Notice of Deficiency (NOD) in the **Federal Register**. See 67 FR 35990 (May 22, 2002). Pursuant to 40 CFR 70.10(b)(2), publication of the NOD commenced a 90-day period during which the State of California had to take significant action to assure adequate administration and enforcement of the

local districts' programs. As described in EPA's NOD, the Agency determined that "significant action" in this instance meant the revision or removal of California Health and Safety Code 42310(e), so that the local air pollution control districts could adequately administer and enforce the title V permitting program for stationary agricultural sources that are major sources of air pollution.

During the 90-day period provided to the State to take the necessary corrective action, EPA proposed to partially withdraw title V program approval in each of the 34 California districts with full program approval. See 67 FR 48426 (July 24, 2002). Since the State did not take the necessary action to assure adequate administration and enforcement of the title V program within the specified time frame, EPA took final action, pursuant to our authority at 40 CFR 70.10(b)(2)(i), to partially withdraw approval of the title V programs for the 34 local air districts listed above. See 67 FR 63551 (October 15, 2002).

On September 22, 2003, the Governor of California signed SB 700, which revised State law to remove the agricultural permitting exemption. The legislation eliminated the exemption and therefore corrected the deficiency we identified in the May 22, 2002 NOD. Therefore, on October 8, 2003, EPA proposed to approve a revision to the 34 district title V programs because districts now have the authority to permit all major stationary sources, including those agricultural sources that were formerly exempt from title V under State law (68 FR 58055). Based on this change in state law and our receipt of a legal opinion from the California Attorney General that confirms that the elimination of the agricultural permitting exemption from State law provides the 34 districts with authority to issue title V permits to major stationary agricultural sources, we are finalizing the program revision today.

II. Comments Received by EPA on Our Proposed Rulemaking and EPA's Responses

EPA received one set of comments. Copies of these comments are available for inspection during normal business hours at Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105.

A summary of the significant comments, and our response thereto, follow.

Comment: The commenter alleges that the proposed rule requires review by the Office of Management and Budget (OMB), and alleges that "farmers were

not included" in the OMB review of the proposed part 70 rule in 1992. In addition, the commenter claims that regulation of stationary agricultural sources by California air pollution control districts will result in economic hardship for California farmers.

Response: It is difficult to determine the legal requirement that the commenter alleges EPA violated because the comment does not cite to any particular statutory, regulatory or executive requirement. To the extent the comment asserts that the rule must undergo OMB review, EPA disagrees. As we stated in the proposed rule, under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action", and therefore not subject to OMB review. With regard to OMB review in 1992, it is not clear which rulemaking the commenter is referring to. If he is referring to the final part 70 rule, his statement is incorrect because the part 70 rule did undergo OMB review. The rule was judged to be "major" under Executive Order 12291, and a Regulatory Impact Analysis (RIA) was prepared and made available for public comment as part of EPA's May 10, 1991 proposal of part 70 [56 FR 21712]. All interested parties, including farmers, had access to the RIA and an opportunity to comment on it. If the commenter is referring to EPA's rulemaking actions to grant interim approval to individual district title V programs in California, he is incorrect because OMB exempted those state-specific actions from review. See, for example, EPA's April 24, 1996 final rule granting interim approval of the San Joaquin Valley Unified APCD title V operating permit program [61 FR 18083].

EPA also disagrees with the commenter's claim that approval of this program revision for 34 title V Operating Permits Programs will result in economic hardship for California farmers. Today's action affects only major agricultural stationary sources that already are subject to EPA's part 71 title V permitting program, and will not result in regulation of the majority of farms which are not subject to title V. The title V program revision EPA is approving, and EPA's termination of its implementation of a part 71 federal operating permit program for State-exempt major stationary agricultural sources, merely transfers the authority to permit such sources from EPA to the 34 districts. As stated in the Administrative Requirements section of this notice, this action merely approves state law as meeting Federal requirements and imposes no additional

requirements beyond those imposed by state law. Accordingly, the Administrator has certified that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (RFA). In making this certification, we note that the Regulatory Flexibility Act requires a certification only as to entities directly regulated by a rulemaking (e.g., farms that are major stationary sources under the Clean Air Act); it does not require us to look at small farms not subject to the final rule, or to downstream businesses or consumers that deal with the larger farms. See *Cement Kiln Recycling Coalition v. EPA*, 255 F.3d 855 (D.C. Cir. 2001).

III. Description of EPA's Final Action

We are approving the program revision of the 34 Clean Air Act title V Operating Permits programs in the State of California. Our action is based on a legal opinion from the California Attorney General that confirms that the elimination of the agricultural permitting exemption from State law provides the 34 districts with authority to issue title V permits to major stationary agricultural sources.

IV. Effect of EPA's Rulemaking

Our final action means that the 34 districts have title V programs that require all major stationary sources to obtain title V operating permits. It also terminates EPA's implementation of a part 71 federal operating permit program for formerly State-exempt major stationary agricultural sources within the jurisdiction of the 34 California air districts listed at the beginning of this final rule. EPA will not issue any permits to these sources, since the 34 districts will have the authority to issue title V permits to major agricultural stationary sources beginning on January 1, 2004. Therefore, EPA is no longer requiring major stationary agricultural sources to submit part 71 permit applications and suspends any outstanding application deadlines.

The May 22, 2002 NOD started an 18 month sanctions clock pursuant to CAA section 179(b). CAA Sec. 502(i)(1) and (2), 40 CFR 70.4(k) and 70.10(b)(2)-(4). California has undertaken all of the required corrections in response to the NOD. Therefore, the sanctions clock is terminated as of November 13, 2003, even though EPA's implementation of the Part 71 program will not be terminated until January 1, 2004.

V. Administrative Requirements

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

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

In reviewing revisions to state operating permit programs submitted pursuant to Title V of the CAA, EPA will approve such revisions provided that they meet the criteria of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the

absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a Part 70 program revision for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a Part 70 program revision, to use VCS in place of a Part 70 program revision that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 20, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 13, 2003.

Laura Yoshii,

Acting Regional Administrator, Region IX.

■ 40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

■ 1. The authority citation for part 70 continues to read as follows:

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

■ 2. Appendix A to part 70 is amended by revising the entry for California to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

California

The following district programs were submitted by the California Air Resources Board on behalf of:

(a) Amador County Air Pollution Control District (APCD):

(1) Complete submittal received on September 30, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on April 10, 2001. Amador County Air Pollution Control District was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(b) *Bay Area Air Quality Management District (AQMD)*:

(1) Submitted on November 16, 1993, amended on October 27, 1994, and effective as an interim program on July 24, 1995. Revisions to interim program submitted on March 23, 1995, and effective on August 22, 1995, unless adverse or critical comments are received by July 24, 1995. Approval of interim program, including March 23, 1995, revisions, expires December 1, 2001.

(2) Revisions were submitted on May 30, 2001. Bay Area Air Quality Management District was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(c) *Butte County APCD*:

(1) Complete submittal received on December 16, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 17, 2001. Butte County APCD was

granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(d) *Calaveras County APCD:*

(1) Complete submittal received on October 31, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on July 27, 2001. Calaveras County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revisions submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(e) *Colusa County APCD:*

(1) Complete submittal received on February 24, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on August 22, 2001 and October 10, 2001. Colusa County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(f) *El Dorado County APCD:*

(1) Complete submittal received on November 16, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on August 16, 2001. El Dorado County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(g) *Feather River AQMD:*

(1) Complete submittal received on December 27, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 22, 2001. Feather River AQMD was

granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(h) *Glenn County APCD:*

(1) Complete submittal received on December 27, 1993; interim approval effective on August 14, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on September 13, 2001. Glenn County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(i) *Great Basin Unified APCD:*

(1) Complete submittal received on January 12, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 18, 2001. Great Basin Unified APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(j) *Imperial County APCD:*

(1) Complete submittal received on March 24, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on August 2, 2001. Imperial County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(k) *Kern County APCD:*

(1) Complete submittal received on November 16, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 24, 2001. Kern County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(l) *Lake County AQMD:*

(1) Complete submittal received on March 15, 1994; interim approval effective on August 14, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on June 1, 2001. Lake County AQMD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(m) *Lassen County APCD:*

(1) Complete submittal received on January 12, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on August 2, 2001. Lassen County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(n) *Mariposa County APCD:*

(1) Submitted on March 8, 1995; approval effective on February 5, 1996 unless adverse or critical comments are received by January 8, 1996. Interim approval expires on December 1, 2001.

(2) Revisions were submitted on September 20, 2001. Mariposa County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(o) *Mendocino County APCD:*

(1) Complete submittal received on December 27, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on April 13, 2001. Mendocino County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(p) *Modoc County APCD:*

(1) Complete submittal received on December 27, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on September 12, 2001. Modoc County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(q) *Mojave Desert AQMD:*

(1) Complete submittal received on March 10, 1995; interim approval effective on March 6, 1996; interim approval expires December 1, 2001.

(2) Revisions were submitted on June 4, 2001 and July 11, 2001. Mojave Desert AQMD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(r) *Monterey Bay Unified Air Pollution Control District:*

(1) Submitted on December 6, 1993, supplemented on February 2, 1994 and April 7, 1994, and revised by the submittal made on October 13, 1994; interim approval effective on November 6, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 9, 2001. Monterey Bay Unified Air Pollution Control District was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(s) *North Coast Unified AQMD:*

(1) Complete submittal received on February 24, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 24, 2001. North Coast Unified AQMD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(t) *Northern Sierra AQMD:*

(1) Complete submittal received on June 6, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 24, 2001. Northern Sierra AQMD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(u) *Northern Sonoma County APCD:*

(1) Complete submittal received on January 12, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 21, 2001. Northern Sonoma APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(v) *Placer County APCD:*

(1) Complete submittal received on December 27, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 4, 2001. Placer County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(w) *The Sacramento Metropolitan Air Quality Management District:*

(1) Complete submittal received on August 1, 1994; interim approval effective on September 5, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on June 1, 2001. The Sacramento Metropolitan Air Quality Management District was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(x) *San Diego County Air Pollution Control District:*

(1) Submitted on April 22, 1994 and amended on April 4, 1995 and October 10, 1995; approval effective on February 5, 1996, unless adverse or critical comments are received by January 8, 1996. Interim approval expires on December 1, 2001.

(2) Revisions were submitted on June 4, 2001. The San Diego County Air Pollution Control District was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(y) *San Joaquin Valley Unified APCD:*

(1) Complete submittal received on July 5 and August 18, 1995; interim approval effective on May 24, 1996; interim approval expires May 25, 1998. Interim approval expires on December 1, 2001.

(2) Revisions were submitted on June 29, 2001. San Joaquin Valley Unified APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(z) *San Luis Obispo County APCD:*

(1) Complete submittal received on November 16, 1995; interim approval effective on December 1, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 18, 2001. San Luis Obispo County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program

for major stationary agricultural sources, effective on January 1, 2004.

(aa) *Santa Barbara County APCD:*

(1) Submitted on November 15, 1993, as amended March 2, 1994, August 8, 1994, December 8, 1994, June 15, 1995, and September 18, 1997; interim approval effective on December 1, 1995; interim approval expires on December 1, 2001.

(2) Revisions were submitted on April 5, 2001. Santa Barbara County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(bb) *Shasta County AQMD:*

(1) Complete submittal received on November 16, 1993; interim approval effective on August 14, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 18, 2001. Shasta County AQMD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(cc) *Siskiyou County APCD:*

(1) Complete submittal received on December 6, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on September 28, 2001. Siskiyou County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural

sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(dd) *South Coast Air Quality Management District:*

(1) Submitted on December 27, 1993 and amended on March 6, 1995, April 11, 1995, September 26, 1995, April 24, 1996, May 6, 1996, May 23, 1996, June 5, 1996 and July 29, 1996; approval effective on March 31, 1997. Interim approval expires on December 1, 2001.

(2) Revisions were submitted on August 2, 2001 and October 2, 2001. South Coast AQMD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(ee) *Tehama County APCD:*

(1) Complete submittal received on December 6, 1993; interim approval effective on August 14, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on June 4, 2001. Tehama County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(ff) *Tuolumne County APCD:*

(1) Complete submittal received on November 16, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on July 18, 2001. Tuolumne County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(gg) *Ventura County APCD:*

(1) Submitted on November 16, 1993, as amended December 6, 1993; interim approval effective on December 1, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 21, 2001. Ventura County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

(hh) *Yolo-Solano AQMD:*

(1) Complete submittal received on October 14, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 9, 2001. Yolo-Solano AQMD is hereby granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(4) Revision submitted on November 7, 2003 containing approved program for major stationary agricultural sources, effective on January 1, 2004.

* * * * *

[FR Doc. 03-29178 Filed 11-20-03; 8:45 am]

BILLING CODE 6560-50-P

Proposed Rules

Federal Register

Vol. 68, No. 225

Friday, November 21, 2003

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV03-959-4 PR]

Onions Grown in South Texas; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would decrease the assessment rate established for the South Texas Onion Committee (Committee) for the 2003-04 and subsequent fiscal periods from \$0.085 to \$0.03 per 50-pound equivalent of onions handled. The Committee locally administers the marketing order which regulates the handling of onions grown in South Texas. Authorization to assess onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by December 22, 2003.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938, or E-mail:

moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

FOR FURTHER INFORMATION CONTACT:

Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Fruit

and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (956) 682-2833, Fax: (956) 682-5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Texas onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable onions beginning on August 1, 2003, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such

handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would decrease the assessment rate established for the Committee for the 2003-04 and subsequent fiscal periods from \$0.085 to \$0.03 per 50-pound equivalent of onions.

The South Texas onion marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of South Texas onions. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2002-03 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 5, 2003, and unanimously recommended 2003-04 expenditures of \$124,661 and an assessment rate of \$0.03 per 50-pound equivalent of onions. In comparison, last year's budgeted expenditures were \$325,400. The assessment rate of \$0.03 is \$0.055 lower than the rate currently in effect. The decrease in the assessment rate and budget is primarily due to the discontinuation of funding for production research projects and a lower marketing and promotion budget. The reduced assessment rate and budget would lower handler costs by about \$220,000 and would keep the

Committee's operating reserve at an acceptable level.

The major expenditures recommended by the Committee for the 2003–04 fiscal period include \$74,661 for personnel and office expenses, \$30,000 for compliance, and \$20,000 for promotion expenses. Budgeted expenses for these items in 2002–03 were \$72,002, \$35,000, and \$170,500, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas onions. Onion shipments for the fiscal period are estimated at 4 million 50-pound equivalents, which should provide \$120,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve (currently \$256,982) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses, § 959.43).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2003–04 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order

that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 78 producers of onions in the production area and approximately 37 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 2002–03 marketing year, the industry's 37 handlers shipped onions produced on 12,740 acres with the average and median volume handled being 114,454 and 91,792 fifty-pound equivalents, respectively. In terms of production value, total revenues for the 37 handlers were estimated to be \$73 million, with average and median revenues being \$1.97 million and \$1.58 million, respectively.

The South Texas onion industry is characterized by producers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of onions. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the onion production season is complete. For this reason, typical onion producers and handlers either produce multiple crops or alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates that 36 of the 37 handlers regulated by the order would be considered small entities if only their spring onion revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the \$5,000,000 annual receipt threshold. All of the 78 producers may be classified as small entities based on the SBA definition if only their revenue from spring onions is considered. When revenues from all sources are considered, a majority of the producers would not be considered small entities because receipts would exceed \$750,000.

This rule would decrease the assessment rate established for the Committee and collected from handlers for the 2003–04 and subsequent fiscal periods from \$0.085 to \$0.03 per 50-pound equivalent of onions. The Committee unanimously recommended 2003–04 expenditures of \$124,661 and an assessment rate of \$0.03 per 50-pound equivalent. The proposed assessment rate of \$0.03 is \$0.055 lower than the current rate. The quantity of assessable onions for the 2003–04 fiscal period is estimated at 4 million 50-pound equivalents. Thus, the \$0.03 rate should provide \$120,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be more than adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2003–04 fiscal period include \$74,661 for personnel and office expenses, \$30,000 for compliance, and \$20,000 for promotion expenses. Budgeted expenses for these items in 2002–03 were \$72,002, \$35,000, and \$170,500, respectively. In addition, the Committee budgeted \$47,900 for production research in 2002–03.

The Committee reviewed and unanimously recommended 2003–04 expenditures of \$124,661, which included increases in administrative expenses and decreases in the compliance and promotion expenses. The Committee did not approve any production research program expenses for 2003–04. Prior to arriving at this budget, the Committee considered information from various sources, including the Research and Market Development Subcommittee. Numerous alternative expenditure levels were discussed based upon the relative value of various promotion projects to the onion industry. The assessment rate of \$0.03 per 50-pound equivalent of assessable onions was then determined by dividing the total recommended budget by the quantity of assessable onions, estimated at 4 million 50-pound equivalents for the 2003–04 fiscal period.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2003–04 fiscal period could range between \$9.05 and \$19.05 per 50-pound equivalent of onions. Therefore, the estimated assessment revenue for the 2003–04 fiscal period as a percentage of total grower revenue could range between .16 and .33 percent.

This action would decrease the assessment obligation imposed on

handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate would reduce the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the South Texas onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 5, 2003, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large South Texas onion handlers. As with all Federal marketing order programs, reports, and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2003-04 fiscal period began on August 1, 2003, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (2) the proposed rule would decrease the assessment rate for assessable onions beginning with the 2003-04 fiscal period; (3) shipments during the 2003-04 fiscal period are expected to start in March 2004, and any change, if any, made to the assessment rate resulting from the proposed rule should be effective by that time; and (4) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is proposed to be amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. Section 959.237 is revised to read as follows:

§ 959.237 Assessment rate.

On and after August 1, 2003, an assessment rate of \$0.03 per 50-pound equivalent is established for South Texas onions.

Dated: November 14, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03-29060 Filed 11-20-03; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-136890-02]

RIN 1545-BA90

Transfers To Provide for Satisfaction of Contested Liabilities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the transfer of indebtedness or stock of a taxpayer or related persons or of a promise to provide services or property in the future to provide for the satisfaction of an asserted liability that the taxpayer is contesting. The temporary regulations also relate to transfers of money or other property to a trust, an escrow account, or a court to provide for the satisfaction of a liability for which payment is economic performance. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by February 19, 2004. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for March 23, 2004, must be received by March 2, 2004.

ADDRESSES: Send submissions to: CC:LPD:PR (REG-136890-02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:LPD:PR (REG-136890-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the IRS Internet site at www.irs.gov/regs. The public hearing will be held in the 7th floor auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Concerning the hearing, submission of comments, and/or to be placed on the building access list to attend the hearing, Guy Traynor, (202) 622-7180; concerning the proposed regulations, Norma Rotunno, (202) 622-7900 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 461(f) of the Internal Revenue Code (Code). The temporary regulations provide the express rule that transfers of the indebtedness of a taxpayer or of any promise to provide services or property in the future, or transfers (other than to the person asserting the liability) of a taxpayer's stock, or the indebtedness or stock of a person related to the taxpayer (as defined in section 267(b)), are not transfers to provide for the satisfaction of an asserted liability. The temporary regulations also provide rules relating to the application of the economic performance rules to transfers of money or other property under section 461(f) to provide for the satisfaction of a contested workers compensation or tort liability, or other liability for which payment is economic performance under § 1.461-4(g). The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a

significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for March 23, 2004, in the 7th floor auditorium of the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by March 2, 2003. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Norma Rotunno, Office of the Associate Chief Counsel (Income

Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

2. Section 1.461-2 is amended by revising paragraphs (c)(1), (e)(2), (e)(3), and (g) to read as follows:

§ 1.461-2 Contested liabilities.

[The text of proposed paragraphs (c)(1), (e)(2), (e)(3), and (g) is the same as the text of § 1.461-2T(c)(1), (e)(2), (e)(3), and (g) published elsewhere in this issue of the **Federal Register**.]

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 03-29043 Filed 11-19-03; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-106486-98]

RIN 1545-AW33

Guidance Regarding the Treatment of Certain Contingent Payment Debt Instruments With One or More Payments That Are Denominated in, or Determined by Reference to, a Nonfunctional Currency; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations under section 1275 of the Internal Revenue Code regarding the treatment of contingent payment debt instruments for which one or more payments are denominated in, or determined by reference to, a currency other than the taxpayer's functional currency.

DATES: The public hearing originally scheduled for December 3, 2003, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Sonya M. Cruse of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration), at (202) 622-4693 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking, notice of public hearing and withdrawal of previous proposed regulations sections that appeared in the **Federal Register** on Friday, August 29, 2003 (68 FR 51944), announced that a public hearing was scheduled for December 3, 2003 at 10 a.m., in room 6718, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 1275 of the Internal Revenue Code. The public comment period for these regulations expired on November 12, 2003. The notice of proposed rulemaking, notice of public hearing, and withdrawal of previous proposed regulations section, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Tuesday, November 18, 2003, no one has requested to speak. Therefore, the public hearing scheduled for December 3, 2003 is cancelled.

La Nita Van Dyke,

Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).

[FR Doc. 03-29165 Filed 11-20-03; 8:45 am]

BILLING CODE 4830-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ64-268, FRL-7587-2]

Approval and Promulgation of Implementation Plans; New Jersey 1-Hour Ozone Control Programs

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes approval of a request from New Jersey to revise its State Implementation Plan to incorporate revisions to Subchapter 16 "Control and Prohibition of Air Pollution by Volatile Organic Compounds." These revisions relate to the control of volatile organic compounds from mobile equipment repair and refinishing operations, solvent cleaning operations and

refueling of motor vehicles at gasoline service stations. The intended effect is to reduce the emissions of volatile organic compounds (VOC) and thereby reduce ozone concentrations in the lower atmosphere.

DATES: Comments must be received on or before December 22, 2003.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, New York, New York 10007-1866. Electronic comments could be sent either to Werner.Raymond@epa.gov or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, then select "Environmental Protection Agency" at the top of the page and use the "go" button. Please follow the on-line instructions for submitting comments.

Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,
Region II Office, Air Programs Branch,
290 Broadway, 25th Floor, New York,
New York 10007-1866.
New Jersey Department of
Environmental Protection and Energy,
Office of Air Quality Management,
Bureau of Air Quality Planning, 401
East State Street, CN418, Trenton,
New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Paul Truchan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3711 or truchan.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What Action Is EPA Taking Today?

EPA is proposing to approve a revision to New Jersey's ozone State Implementation Plan (SIP) submitted on June 4, 2003. This SIP incorporates revisions to Subchapter 16 "Control and Prohibition of Air Pollution by Volatile Organic Compounds," which revised three control measures. New Jersey committed to adopt two of these control measures to meet the emission reduction short fall that EPA identified in its 1-hour ozone attainment demonstration.

II. What Did New Jersey Submit?

On June 4, 2003, New Jersey submitted a SIP revision which incorporated amendments to Title 7,

Chapter 27, "Subchapter 16 Control and Prohibition of Air Pollution from Volatile Organic Compounds" which was adopted on April 30, 2003. This adoption was published in the New Jersey Register on June 2, 2003 and became operational on June 29, 2003. New Jersey amended Subchapter 16 to include revisions to three control programs: solvent cleaning operations, mobile equipment repair and refinishing operations, and gasoline transfer operations. The Subchapter 16 revisions are applicable to the entire State of New Jersey.

III. What Do the New Provisions Require?

A. Solvent Cleaning Operations

The new provisions for solvent cleaning operations require more stringent equipment standards, improved operating requirements and volatility restrictions that go beyond those included in the Control Techniques Guidelines (CTG) developed for this source category. These new requirements are based on the Ozone Transport Commission (OTC) model rule and federal Maximum Achievable Control Technology (MACT) standards. Cold cleaners and heated cleaning machines are now prohibited from using solvents with vapor pressures of one millimeter of mercury or greater measured at 20 degrees centigrade. Operating procedures are expanded to minimize evaporation of cleaning solvent both during use and when idle. Equipment standards, such as freeboard height, have been increased.

B. Mobile Equipment Repair and Refinishing Facilities

The new provisions establish more stringent requirements for mobile equipment repair and refinishing facilities or automobile refinishing shops and are based on the OTC model rule. They require the use of coating application equipment with higher transfer efficiency and lower rates of coating waste, such as high volume and low pressure spray guns and enclosed spray gun cleaning equipment. Requirements also include minimum training for spray gun operators and use of VOC paint content limits consistent with EPA national regulations. The test procedures have been modified to clarify that all Federal test methods may be used to determine compliance with the VOC content limits. In addition, alternate test procedures may be used on a case-by-case basis when necessary with the approval of New Jersey and EPA.

C. Stage II Vapor Control Systems

Stage II vapor control systems are designed to capture the gasoline vapors that are released to the atmosphere when motor vehicles are refueled. Gasoline dispensing facilities or gasoline stations are required to have State-approved emission control systems. New Jersey relied on certification of vapor control equipment carried out by the California Air Resources Board (CARB) in determining which equipment is approvable. CARB, however, modified its certification procedures necessitating changes to New Jersey's procedures. New Jersey will still rely on CARB standards, but will adopt CARB requirements only in part. The revisions incorporate the more readily available, cost and environmentally effective elements of CARB's new requirements.

The capture systems are now required to increase the control efficiency from 90 to 98 percent. In addition, gasoline dispensing facilities must install pressure/vacuum relief valves on atmospheric vent pipes, improve maintenance of the Stage II vapor recovery systems to ensure that such systems are vapor tight and leak free and must perform annual testing of the vapor recovery system to ensure its integrity. Finally, new gasoline stations are now required to use unihoses fuel delivery systems (one hose for multiple grades of gasoline). These new requirements go beyond the Clean Air Act requirement for an approved Stage II vapor recovery system.

D. Other Changes

New Jersey also made changes to the definitions section to include terms necessary to implement the new requirements. In addition, other terms were revised to make them consistent with other rules and to improve their clarity. Organizational changes were made to existing provisions to accommodate the new provisions.

IV. What Role Does This Rule Play in the Ozone SIP?

When EPA evaluated New Jersey's 1-hour ozone attainment demonstrations, EPA determined that additional emission reductions were needed for the two severe nonattainment areas in order for them to attain the 1-hour ozone standard with sufficient surety (December 16, 1999, 64 FR 70380). EPA provided that the States in the Ozone Transport Region could achieve these emission reductions through regional control programs. New Jersey decided to participate with the other states in the Northeast in an Ozone Transport

Commission (OTC) regulatory development effort which developed six model control programs. This rulemaking incorporates two of the OTC model control programs into the SIP: Solvent cleaning operations, and mobile equipment repair and refinishing operations. The emission reductions from these control measures will provide for achievement of a portion of the additional emission reductions needed to attain the 1-hour ozone standard.

V. What Are EPA's Conclusions?

EPA has evaluated the submitted revisions for consistency with its provisions, EPA regulations and EPA policy. The proposed control measures go beyond the reasonably available control technology (RACT) level controls that were previously approved for these source categories. These new control programs will strengthen the SIP by providing additional VOC emission reductions. Accordingly, EPA is proposing to approve the Subchapter 16 revisions as adopted on April 30, 2003.

VI. Statutory and Executive Order Reviews

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

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes,

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: November 5, 2003.

Jane M. Kenny,

Regional Administrator, Region 2.

[FR Doc. 03-29181 Filed 11-20-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR-2003-0188; FRL-7587-5]

RIN A2060-0013

List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, Source Category List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to amend the list of hazardous air pollutants (HAP) contained in section 112(b)(1) of the Clean Air Act (CAA) by removing the compound ethylene glycol monobutyl ether (EGBE) (2-Butoxyethanol) (Chemical Abstract Service (CAS) No. 111-76-2) from the group of glycol ethers. Today's action is being taken in response to a petition to delete EGBE from the HAP list submitted by the Ethylene Glycol Ethers Panel of the American Chemistry Council (formerly the Chemical Manufacturers Association) on behalf of EGBE producers and consumers. Petitions to delete a substance from the HAP list are permitted under section 112(b)(3) of the CAA.

The proposed rule is based on EPA's evaluation of the available information concerning the potential hazards and projected exposures to EGBE. We have made an initial determination that there are adequate data on the health and environmental effects of EGBE to determine that emissions, ambient concentrations, bioaccumulation, or deposition of EGBE may not reasonably be anticipated to cause adverse human health or environmental effects. Today's action includes a detailed rationale for removing EGBE from the glycol ethers group of HAP under section 112(b)(1) list of HAP.

DATES: *Comments.* Written comments on the proposed rule must be received by January 20, 2004.

Public Hearing. A public hearing will be held if requests to speak are received by the EPA on or before December 8, 2003. If requested, a public hearing will be held on December 19, 2003.

ADDRESSES: *Comments.* Comments may be submitted electronically, by mail, or through hand delivery/courier. Electronic comments may be submitted on-line at <http://www.epa.gov/edocket/>. Written comments sent by U.S. mail should be submitted (in duplicate if possible) to: Air and Radiation Docket and Information Center (Mail Code 6102T), Attention Docket ID Number

OAR-2003-0188, Room B108, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Written comments delivered in person or by courier should be submitted (in duplicate if possible) to: Air and Radiation Docket and Information Center (Mail Code 6102T), Attention Docket ID Number OAR-2003-0188, Room B102, U.S. EPA, 1301 Constitution Avenue, NW., Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing. If a public hearing is requested by December 8, 2003 the public hearing will be held at the new EPA facility complex, Research Triangle Park, NC December 19, 2003. Persons interested in presenting oral testimony should contact Ms. Kelly A. Rimer, Risk and Exposure Assessment Group, Emission Standards Division (C404-01), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2962 at least two days in advance of the hearing.

FOR FURTHER INFORMATION CONTACT: Ms. Kelly A. Rimer, Risk and Exposure Assessment Group, Emission Standards Division (C404-01), U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541-2962, electronic mail address rimer.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Entities potentially affected by today's action are those industrial facilities that manufacture or use EGBE. Today's action proposes to amend the list of HAP contained in section 112(b)(1) of the CAA by removing the compound EGBE.

Docket. The EPA has established an official public docket for this action under Docket ID Number A-99-24 and Electronic Docket ID Number OAR-2003-0188. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center (Air Docket), EPA West, Room B-108, 1301 Constitution Avenue, NW., Washington, DC 20004. The Docket Center 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 Air Docket is (202) 566-1742. All items may not be listed under both docket numbers, so interested parties should inspect both docket numbers to ensure that they have received all materials relevant to the proposed rule.

Electronic Access. 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 of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, select "search" and key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA dockets. Information claimed as confidential business information (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. The 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. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

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.

Comments. You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification 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 submitted after the close of the comment period will be marked "late." The EPA is not required to consider these late comments.

Electronically. If you submit an electronic comment as prescribed below, 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. The 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.

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 key in Docket ID No. OAR-2003-0188. 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.

Comments may be sent by electronic mail (e-mail) to a-and-r-docket@epa.gov, Attention Docket ID No. OAR-2003-0188. 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.

You may submit comments on a disk or CD ROM that you mail to the mailing address identified in this document. These electronic submissions will be accepted in WordPerfect or ASCII file

format. Avoid the use of special characters and any form of encryption.

By Mail. Send your comments (in duplicate, if possible) to: EPA Docket Center (Air Docket), U.S. EPA West, (MD-6102T), Room B-108, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. OAR-2003-0188.

By Hand Delivery or Courier. Deliver your comments (in duplicate, if possible) to: EPA Docket Center, Room B-108, U.S. EPA West, 1301 Constitution Avenue, NW., Washington, DC 20004, Attention Docket ID No. OAR-2003-0188. Such deliveries are only accepted during the Docket Center's normal hours of operation.

By Facsimile. Fax your comments to: (202) 566-1741, Docket ID No. OAR-2003-0188.

CBI. Do not submit information that you consider to be CBI through EPA's electronic public docket or by e-mail. Send or deliver information identified as CBI only to the following address: Kelly Rimer, c/o Roberto Morales, Office of Air Quality Planning and Standards (OAQPS) Document Control Officer (C404-02), U.S. EPA, 109 TW Alexander Drive, Research Triangle Park, NC 27709, Attention Docket ID No. OAR-2003-0188. 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.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposed rule will also be available on the WWW through the Technology Transfer Network (TTN), on the TTN's policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

Outline. This preamble is organized as follows:

- I. Background
- II. Criteria for Delisting
- III. EPA Analysis of the Petition
 - A. Background
 - B. Exposure Assessment
 - C. Human Health Effects of EGBE
 - D. Human Health Risk Characterization and Conclusions
 - E. Ecological Risk Characterization and Conclusions

- F. Transformation Characterization
- G. Public Comments
- H. Conclusions
- IV. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act (RFA)
 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
 - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act

I. Background

Section 112 of the CAA contains a mandate for EPA to evaluate and control emissions of HAP. Section 112(b)(1) includes a list of 188 specific chemical compounds and classes of compounds that Congress identified as HAP. The EPA must evaluate the emissions of substances on the HAP list to identify source categories for which the Agency must establish emission standards under section 112(d). We are required to periodically review the list of HAP and, where appropriate, revise the list by rule. In addition, under section 112(b)(3), any person may petition us to modify the list by adding or deleting one or more substances. A petitioner seeking to delete a substance must demonstrate that there are adequate data on the health and environmental effects of the substance to determine that emissions, ambient concentrations, bioaccumulation, or deposition of the substance may not reasonably be anticipated to cause any adverse effects to human health or the environment. A petitioner must provide a detailed evaluation of the available data concerning the substance's potential adverse health and environmental effects and estimate the potential exposures through inhalation or other routes resulting from emissions of the substance.

On August 29, 1997, the American Chemistry Council's Ethylene Glycol Ethers Panel submitted a petition to delete EGBE (CAS No. 111-76-2) from the HAP list in CAA section 112(b)(1), 42 U.S.C., 7412(b)(1). Following the receipt of the petition, we conducted a preliminary evaluation to determine whether the petition was complete according to Agency criteria. To be deemed complete, a petition must consider all available health and environmental effects data. A petition

must also provide comprehensive emissions data, including peak and annual average emissions for each source or for an appropriately selected subset of sources, and must estimate the resulting exposures of people living in the vicinity of the sources. In addition, a petition must address the environmental impacts associated with emissions to the ambient air and impacts associated with the subsequent cross-media transport of those emissions. After receiving additional submittals through December 21, 1998, we determined the petition to delete EGBE to be complete. We published a notice of receipt of a complete petition in the **Federal Register** on August 3, 1999 and requested information to assist us in technically reviewing the petition.

We received eight submissions in response to our request for comment and information which would aid our technical review of the petition. The comments made general statements encouraging EPA to delist EGBE. None of the comments included technical information.

II. Criteria for Delisting

Section 112(b)(2) of the CAA requires us to make periodic revisions to the initial list of HAP set forth in section 112(b)(1) and outlines criteria to be applied in deciding whether to add or delete particular substances. Section 112(b)(2) identifies pollutants that should be listed as:

* * * pollutants which present, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects (including, but not limited to, substances which are known to be, or may reasonably be anticipated to be, carcinogenic, mutagenic, teratogenic, neurotoxic, which cause reproductive dysfunction, or which are acutely or chronically toxic) or adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise * * *

Section 112(b)(3) of the CAA establishes general requirements for petitioning the Agency to modify the HAP list by adding or deleting a substance. Although the Administrator may add or delete a substance on his or her own initiative, the burden is on a petitioner to include sufficient information to support the requested addition or deletion under the substantive criteria set forth in section 112(b)(3)(B) and (C).

The Administrator must either grant or deny a petition to delist a HAP within 18 months of receipt of a complete petition. If the Administrator decides to deny a petition, the Agency publishes a written explanation of the basis for denial in the **Federal Register**.

A decision to deny a petition is final Agency action subject to review. If the Administrator decides to grant a petition, the Agency publishes a written explanation of the Administrator's decision, along with a proposed rule to add or delete the substance. The proposed rule is open to public comment and public hearing, and all additional substantive information received is considered prior to the issuance of a final rule.

To delete a substance from the HAP list, section 112(b)(3)(C) provides that the Administrator must determine that:

* * * there is adequate data on the health and environmental effects of the substance to determine that emissions, ambient concentrations, bioaccumulation of deposition of the substance may not reasonably be anticipated to cause any adverse effects to the human health or adverse environmental effects.

We do not interpret CAA section 112(b)(3)(C) to require absolute certainty that a pollutant will not cause adverse effects on human health or the environment before it may be deleted from the list. The use of the terms "adequate" and "reasonably" indicate that the Agency must weigh the potential uncertainties and likely significance. Uncertainties concerning the risks of adverse health or environmental effects may be mitigated if we can determine that projected exposures are sufficiently low in relation to levels where adverse effects may occur to provide reasonable assurance that such adverse effects will not occur. Similarly, uncertainties concerning the magnitude of projected exposures may be mitigated if we can determine that the levels which might cause adverse health or environmental effects are sufficiently high to provide reasonable assurance that exposures will not reach harmful levels. However, the burden remains on a petitioner to demonstrate that the available data support an affirmative determination that emissions of a substance may not be reasonably anticipated to result in adverse effects on human health or the environment. The EPA will not remove a substance from the list of HAP based merely on the inability to conclude that emissions of the substance will cause adverse effects on human health or the environment. As a part of the requisite demonstration, a petitioner must resolve any critical uncertainties associated with missing information. We will not grant a petition to delete a substance if there are major uncertainties that need to be addressed before we would have sufficient information to make the requisite determination.

III. EPA Analysis of the Petition

A. Background

The broad category of glycol ethers (GE) are general solvents, also known as cellosolves. In 2000, ethylene glycol monobutyl ether made up an estimated 45 percent of the total GE production in the U.S. (or 325,000–350,000 tons). It is a colorless liquid with a mild, rancid odor. It is soluble in most organic solvents and mineral oil. It mixes with acetone, benzene, carbon tetrachloride, ethyl ether, n-heptane and water, and it is miscible with many ketones, ethers, alcohols, aromatic paraffin, and halogenated hydrocarbons.

Ethylene glycol monobutyl ether is used in hydraulic fluids and as a coupling agent for water-based coatings. It is used in vinyl and acrylic paints and varnishes and as a solvent for varnishes, enamels, spray lacquers, dry cleaning compounds, textiles, and cosmetics. Ethylene glycol monobutyl ether is a solvent for grease and grime in industrial cleaning. It is also used as a freeze-thaw agent in latex paints and emulsions, and as an intermediate in the production of esters, ethers, alkoxy alkyl halides, polyether alcohols, hemiacetals and acetals.

The petition states that EGBE released to the air has a half life of 3 to 33 hours. However, the California Air Resources Board (CARB) reports an EGBE half-life of 14 to 22 hours. The midpoint in these ranges of both these half-lives is 18 hours, and we used this value in our analysis as it represents a reasonable estimate of the half-life of EGBE. The petition identifies the principal oxidation products of EGBE as n-butyl formate, 2-hydroxyethyl formate, propionaldehyde, 3-hydroxybutyl formate, and several isomeric forms of an organic nitrate compound. Only one of these compounds (*i.e.*, propionaldehyde) is a listed HAP. However, the formate esters are known to transform in the atmosphere into formaldehyde, which is another listed HAP. In addition, propionaldehyde undergoes further transformation to formaldehyde and acetaldehyde (which is also a HAP).

The portion of EGBE that does not degrade to secondary products in the air, rapidly partitions to soil and water. Once in soil, EGBE is further decomposed through biotic processes, but it has been estimated that as much as 35 percent of the EGBE deposited on soil can eventually move to water. Due to its low volatility, high solubility, low vapor pressure, and minimal tendency to bind to sediments, once in surface water EGBE tends to remain dissolved until it biodegrades (half life = 1 to 4

weeks). It has a low bioconcentration factor, therefore, it is not anticipated to accumulate in the environment or in food stuffs.

Its relatively rapid biodegradation in water indicates that humans are unlikely to be exposed to significant amounts of EGBE in drinking water. However, the fact that EGBE released to the air preferentially partitions to water does raise a question concerning the risk from EGBE ingestion originating from air releases. Based on our review of the available information on EGBE, we have concluded that inhalation and ingestion are the important routes of nonoccupational exposures resulting from EGBE emissions, and consider these two routes of exposure in evaluating this petition.

B. Exposure Assessment

As a first step in evaluating the petition's inhalation risk assessment, we reviewed the petitioner's emissions inventory upon which the modeling was based. The petitioner used the 1993 Toxics Release Inventory (TRI) as a starting point to identify emissions of GE, including EGBE. To locate facilities emitting EGBE which were not included in the TRI, the petitioner searched EPA's TTN to identify regulatory documentation that might contain EGBE emissions data. This documentation includes information on recently promulgated maximum control technology (MACT) standards, information on area sources, and consumer and commercial product Volatile Organic Compounds (VOC) rules. The petitioner searched the National Air Toxics Clearinghouse which contains a database of State air toxic programs identifying those States with active air toxics programs and those that collected chemical specific data and contacted the State agencies for data. The petitioner also contacted 12 trade associations concerned with the use of EGBE to obtain data regarding industry use of EGBE and/or GE. Lastly, the petitioner contacted facilities known to be large EGBE emission sources to obtain specific modeling data, such as emission rates, stack height, distance to fence line.

After reviewing the petitioner's inventory, we have concluded that the methods used to identify sources of EGBE emissions are adequate and provide a reasonable representation of the EGBE emissions. To evaluate the overall completeness of the inventory, we compared the petition's list of EGBE emission sources to EPA's 1996 National Toxics Inventory (NTI), which is now called the National Emissions Inventory (NEI). We found the

petitioner's inventory to be comparable to the NTI. Therefore, we conclude that the petitioner's emissions inventory provides an adequate basis for dispersion modeling and the exposure assessment and is acceptable for that purpose.

The petitioner used a modification of the air dispersion modeling approach described in EPA's "Tiered Modeling Approach for Assessing Risk due to Sources of Hazardous Air Pollutants" (EPA-450/4-92-001) (Tiered Approach) to develop predictions of the maximum annual concentrations for the EGBE emission sources identified in its inventory. The petitioner's modifications of the Tiered Approach first consisted of conducting an "inverted tier 1" assessment before the petitioner conducted a standard tier 1 analysis. The EPA's tier 1 conservatively predicts the air concentration from a facility when few data are available. The required inputs are: Estimates of annual emission rate, distance to fence line and whether the release is from a point or area source. The result of tier 1 is a maximum annual concentration for the pollutant assessed. The petitioner used the inverted tier 1 approach in order to identify an emission rate that would result in a specified maximum annual concentration. The petitioner could then estimate, for a large number of facilities, what emission rates would result in the specified maximum concentration. All facilities who emitted EGBE in amounts that resulted in the specified maximum concentration would then be brought forth to the next level of analysis. In our review of this approach, we have determined that it is reasonable, and would tend to overestimate rather than underestimate maximum annual ambient average concentrations. This is because the petitioner used a combination of a ground level emission release and a 50 meter distance to fence line, which are assumptions that would tend to overstate impacts. Also, the petitioner chose to use a maximum annual ambient average concentration of 3 milligrams per cubic meter (mg/m^3) as the cut-off for a facility to be brought forward to a more detailed analysis. The value the petitioner chose as a cut-off is far below the EPA inhalation reference concentration, which is a peer-reviewed value defined as an estimate (with uncertainty spanning perhaps an order of magnitude) of a daily inhalation exposure to the human population (including sensitive subgroups) that is likely to be without appreciable risk of deleterious noncancer effects during a life time. Given that the current EPA Inhalation Reference Concentration

(RFC) is $13 \text{ mg}/\text{m}^3$, using $3 \text{ mg}/\text{m}^3$ as a cutoff resulted in a greater number of facilities being brought into the more detailed analysis. This increases our confidence that the exposure assessment will likely over- rather than under-estimate the actual maximum annual ambient average concentrations of EGBE.

All 3,439 sources in the inventory went through the inverted tier 1 analysis. Of those, 286 showed maximum annual ambient average concentrations of EGBE of $3 \text{ mg}/\text{m}^3$ or greater. The petitioner included these 286 sources in the next level of analysis, the standard tier 1 analysis described above.

Upon review, we determined the petitioner appropriately applied the tier 1 analysis and correctly identified 64 sources as showing a maximum annual ambient average concentration of $3 \text{ mg}/\text{m}^3$ or greater. These sources moved on to the next phase of the analysis.

This next phase is the petitioner's second modification to the standard EPA Tiered Approach. It includes a probabilistic modeling exercise along with a decision analysis method (CARTSCREEN). The petitioner employed these methods as an additional screening tool for sources whose maximum annual average ambient concentrations of EGBE that, according to the tier 2 analysis, are predicted to exceed $3 \text{ mg}/\text{m}^3$, but that may not warrant a tier 2 or 3 analysis. The petitioner first constructed a distribution of values of additional source parameters, for example, stack diameter, exit temperature and velocity. The model randomly selected a value for each input from that distribution of values, constructing a hypothetical facility, before running SCREEN3. This procedure was repeated a total of 25,000 times. The results of this probabilistic modeling exercise were imported into the decision tool CARTSCREEN along with data from actual facilities, in order to complete the data set. The results of CARTSCREEN showed which facilities would emit EGBE in amounts that result in maximum annual average ambient concentrations of $3 \text{ mg}/\text{m}^3$ or greater. Of the 64 facilities for which this analysis was conducted, 41 sources moved on to the tier 2 analysis.

We have determined that the assumptions and parameter selection underlying this modification are consistent with the objectives of the EPA tiered approach. The modeling component of this approach used SCREEN3, which is a regulatory model developed and used by the EPA. In addition, we have determined that CARTSCREEN uses well established

decision tree methods which are appropriately applied here.

The petitioner brought forth the 41 sources from the previous iteration, and added 29 sources back into the tier 2 analysis because there were enough data to do so. The petitioner added these 29 facilities back into the analysis in order to be conservative, even though these facilities produce hazards below the $3 \text{ mg}/\text{m}^3$ cutoff established by the petitioner. The petitioner used EPA's SCREEN3 model and followed EPA's Guidance on Air Quality models (40 CFR part 51, appendix W), the EPA's Tiered Modeling Guidance, and SCREEN3 documentation. The tier 2 analysis required the following information for each facility: annual EGBE emission rate; release type (point, area, volume) release height; inside stack diameter; stack gas exit velocity and temperature; horizontal distance across area or volume sources; terrain, land use (urban or rural); and building dimensions. The petitioner included the raw data for the dispersion model analysis and the model outputs. The results showed that maximum predicted annual average ambient concentration of EGBE ranged from near $0 \text{ mg}/\text{m}^3$ to $37 \text{ mg}/\text{m}^3$.

We reviewed the data, verified the appropriateness of the model and facility input parameters, and evaluated the model outputs for several emissions sources selected at random. Our evaluation confirmed that the petitioner applied appropriate EPA guidelines in the dispersion modeling analysis and that the predicted maximum annual EGBE concentrations were consistent with the objective of the tier 2 analysis.

Two sources had predicted concentrations over $3 \text{ mg}/\text{m}^3$. However, the petitioner included five facilities in the tier 3 analysis, in order to include the two largest EGBE emissions sources identified in the inventory. The analysis used EPA's Industrial Source Complex Short Term Model, Version 3 (ISCST3) model and followed EPA's Guidance on Air Quality models, the EPA's Tiered Modeling Guidance, and ISCST3 documentation. In addition to the release inputs used in tier 2, the ISCST3 model requires emissions information for all emission points, (SCREEN3 makes the simplifying assumption that all emissions come out of 1 stack), fence line data, 5 years of meteorological data, and a receptor grid. The petitioner used the regulatory default mode. The results showed that the maximum annual average ambient concentration (regardless of fence line) resulting from a single major source's emissions of EGBE is $0.3 \text{ mg}/\text{m}^3$. (A major source is a source that emits greater than 10 tons

per year (tpy) of EGBE or 25 tpy of EGBE combined with other HAP.)

We have determined that the petitioner performed the dispersion modeling analysis following appropriate modeling guidance. Based on our technical review of the various emission modeling components, we have confirmed that the highest predicted maximum annual average off-site concentration (*i.e.*, the maximum annual level occurring over 5 years) of EGBE for any individual major source facility does not exceed 0.3 mg/m³. We judge that these estimates are more likely to over predict than under predict actual exposures due to the health-protective assumptions made in the analysis. Based on the information provided in the petition on EGBE emissions, we evaluated the potential impact of emission sources within close proximity to each other. First, we looked at the emissions from closely located major sources. Based on our evaluation, we concur with the petitioner that the maximum annual EGBE concentration from closely located major sources is expected to be no greater than 0.07 mg/m³.

Next, we evaluated the petitioner's modeling approach for closely located area sources (*i.e.*, sources emitting less than 10 tpy EGBE located 500 meters from each other). We determined that the assumptions underlying the petitioner's model were conservative, and that the maximum estimated annual concentration of EGBE from area sources is likely to be no greater than 0.5 mg/m³. We note that this concentration is higher than the maximum annual ambient average concentration predicted from either a major source or a group of closely located major sources. This is not unexpected as smaller sources can have emission release characteristics that can result in higher impacts to the surrounding communities. For example, while smaller sources may emit less EGBE, they may also have shorter stack heights, or fence lines that are closer to the emission points. Also, people may live closer to a smaller facility.

We reviewed the literature and various EPA databases to assess the potential contribution of the ambient background EGBE to the maximum annual concentration of EGBE. Subsequently, we determined that EGBE monitoring data that could be used to determine the background EGBE level are not available. We, therefore, proceeded to evaluate the petitioner's background estimation approaches. Based on our evaluation, we have determined that both approaches provide acceptable, yet conservative

estimates. Therefore, we have concluded that the ambient background concentration of EGBE is not likely to have a significant influence on maximum annual exposures to EGBE.

To summarize the air quality modeling component of the inhalation exposure assessment, the petitioner provided a tiered modeling analysis of EGBE emissions using EPA guidelines and models. The analysis was performed following acceptable modeling guidance. Based on a detailed technical review of the analyses, it is our conclusion that model inputs, assumptions, and results provide a conservative representation of EGBE sources. The modeling analysis demonstrated that the maximum annual concentration of EGBE was no greater than 0.3 mg/m³ from a single major source, 0.07 mg/m³ from a cluster of major sources, and 0.5 mg/m³ from a cluster of area sources.

We judge the petition's overall approach to exposure assessment to be acceptable. The use of the maximum annual average ambient concentration for each emission source to characterize the exposed population provides a conservative approach to chronic exposure modeling. Furthermore, based on our experience, we judge that a refined exposure assessment estimating exposures for actual people living near these facilities would result in maximum individual exposures significantly lower than the maximum annual average ambient approach. Given the likely proximity of inhabitable areas and the variability of human activity patterns over an annualized time period, it is our expectation that actual maximum individual exposure would be at least a factor of 2 less than predicted by the models and at least an order of magnitude below EPA's RfC.

After evaluating the petitioner's ingestion exposure scenarios, we determined that the scenarios were acceptable and that the human exposure parameters used to calculate a person's average daily intake were conservative. However, as a part of our assessment of potential ecological risk due to EGBE emissions, we had previously derived an independent estimate of the concentration of EGBE in a water body situated at the point of the maximum annual average EGBE concentration from the largest emission source in the petitioner's inventory. This estimate was approximately 28 times greater than that presented in the petition. Therefore, based on this estimate, we were concerned that the petitioner's estimation method was not sufficiently

conservative, and we carried out the following analysis described below.

Our estimation of EGBE in surface water was a worst-case estimate. It was derived using a Mackay Level III fugacity model to estimate the steady state equilibrium concentration of a known volume (*i.e.*, 1,000 kilograms per hour (kg/h) of EGBE released to the atmosphere in each of four environmental media: Air, soil, sediment, and water. The EGBE concentration predicted in air was then ratioed with the maximum concentration predicted for a single major source from the petitioner's ISCST3 model (*i.e.*, 0.3 mg/m³) of the largest emission source to develop a scaling factor. The EGBE concentration in water as predicted by the Mackay model was then multiplied by the scaling factor to predict EGBE concentrations in a water body situated at the point of the maximum annual average EGBE concentration. The results yielded an estimated concentration of 3.6 milligrams per liter (mg/L) of EGBE in the water body.

We consider these results to be very conservative (*i.e.*, worst case) because numerous variables were not taken into consideration that, if considered, were likely to reduce estimates of EGBE in water. For example, we did not consider degradation in the water, nor did we consider that the body of water would have to be continuously exposed at the fence line concentration across its entire surface to approach this predicted concentration. Therefore, we do not anticipate surface water concentrations greater than 3.6 mg/L to occur as a result of airborne deposition of EGBE.

Even though we do not feel that surface water concentrations would approach 3.6 mg/L, we used this worst case estimate, to recalculate the average daily intake for each of the age groups in each exposure scenario. For the Residential Scenario involving the ingestion of EGBE in drinking water, we calculated an average daily intake of 0.1 milligram per kilogram per day (mg/kg/day) for adults and 0.2 mg/kg/day for children of both age groups. For the Residential Scenario involving dermal contact with EGBE during bathing and showering, we determined an average daily intake of 0.00003 mg/kg/day for adults, 0.0004 mg/kg/day for older children, and 0.0005 mg/kg/day for younger children. For the Recreational Scenario involving incidental ingestion of EGBE in surface water while swimming, we calculated an average daily intake of 0.0007 mg/kg/day for adults, 0.04 mg/kg/day for older children, and 0.03 mg/kg/day for younger children. Lastly, for the

Recreational Scenario involving dermal contact with EGBE in surface water, we calculated an average daily intake of 0.0003 mg/kg/day for adults, 0.0002 mg/kg/day for older children, and 0.0006 g/kg/day for younger children.

Combining the Residential and Recreational Scenarios for each of the age groups provided a worst-case exposure scenario. The average daily intake for the combined worst case are: Adults 0.1 mg/kg/day, older children 0.3 mg/kg/day, and younger children 0.3 mg/kg/day. Based on this analysis, we have concluded that exposures to EGBE arising from the ingestion of surface water exposed may not reasonably be anticipated to exceed 0.3 mg/kg/day, and would be significantly less.

C. Human Health Effects of EGBE

The petitioner used the 1997 draft Integrated Risk Information System (IRIS) assessment as the basis for their human health effects evaluation of EGBE. Since then, the IRIS assessment has been completed (in 1999) and more recent toxicological information on EGBE has become available. Therefore, rather than evaluating the information presented in the petition, we focus our evaluation of EGBE's health effects on the more recent data.

We used the IRIS toxicological database to evaluate the human health effects associated with exposures to EGBE, and to identify an appropriate human health criterion for the risk characterization (IRIS, 1999). Specifically, we used the toxicological data presented in support of the IRIS RfC and Inhalation Reference Concentration and reference dose (RfD) which is contained in *The Toxicological Review of Ethylene Glycol Monobutyl Ether (EGBE)*. This document is electronically available via EPA's IRIS Page at <http://www.epa.gov/iris>. The IRIS is the Agency's official repository of consensus human health risk information. It was created and is maintained by the Agency to provide assistance to Agency decision makers on the potential adverse human health effects of particular substances. In addition, EPA scientists have investigated and analyzed information on the human carcinogenic potential of EGBE that was published after the IRIS assessment was final. We had our evaluation of the new information peer reviewed by experts external to the agency, and we use this evaluation to help us draw conclusions about the potential for EGBE to cause cancer in humans (see docket for EPA's August, 2003 Interim Final Report, "An evaluation of the Human Carcinogenic Potential of Ethylene Glycol Butyl

Ether"). Based on these reviews, we have determined that adequate data concerning the potential health effects of EGBE are available and are of sufficient quality to use as the basis for deciding whether or not to delete EGBE.

The IRIS reports that the reproductive toxicity of EGBE has been studied in a variety of well conducted oral and inhalation studies using rats, mice, and rabbits. In addition, several developmental studies have addressed EGBE toxicity from conception to sexual maturity including toxicity to the embryo and fetus, following oral and dermal exposures to rats, mice, and rabbits. Ethylene glycol monobutyl ether was not found to cause adverse effects in any reproductive organs in any study. In a two generational reproductive toxicity study, fertility was reduced in mice only at very high (maternally toxic) doses. Maternal toxicity related to the adverse effects on red blood cells (called hematologic effects) due to exposure to EGBE and relatively minor developmental effects have been reported in developmental studies. We conclude from these studies that EGBE is not significantly toxic to reproductive organs of parents, male or female. In addition, no teratogenic toxicities were noted in any of the studies. Therefore, we also conclude that EGBE is not significantly toxic to developing fetuses of laboratory animals.

Our review of the IRIS assessment confirmed that hematologic effects is the primary response in sensitive species following inhalation, oral, or dermal administration of EGBE. The reported sensitivities range from that of the guinea pig which displays no hemolytic effects from EGBE at exposures levels as high as 1,000 mg/kg (oral) or 2,000 mg/kg (dermally) to the rat which displays increased sensitivity at single-inhalation exposures below 100 parts per million (ppm) (483 mg/m³) and single oral exposures below 100 mg/kg. No hemolysis has been observed in controlled laboratory acute inhalation exposures of human volunteers up to 195 ppm (941.9 mg/m³) and reversible hemolytic effects have been observed in a case where humans consumed single oral doses of 400 to 1,500 mg/kg of EGBE.

Data considered in the IRIS toxicological review, primarily from acute and in vitro studies, indicate that humans are significantly less sensitive to the hemolytic toxicity of EGBE than typical laboratory species such as mice, rats, or rabbits. While studies of chronically exposed humans are lacking, several laboratory animal studies have demonstrated this, as have in vitro studies using either whole blood

or washed red blood cells. In addition, blood from potentially sensitive individuals, including the elderly and those persons with congenital hemolytic disorder such as sickle-cell anemia or hereditary spherocytosis, does not show an increased hemolytic response when incubated with EGBE's active metabolite, 2-butoxyacetic acid (BAA).

The principal study used to determine the EGBE RfC is a 2-year bioassay that involved groups of F344 rats exposed to 0, 31, 125, and 500 ppm EGBE in air for 12 months (6 hours/day, 5 days/week). Female rats exposed to the three highest concentrations at all exposure durations developed clinical signs consistent with hemolytic effects associated with EGBE exposures. A Lowest Observed Adverse Effects Level (LOAEL) of 31 ppm (149.7 mg/m³) was identified in this study for hematologic and histopathologic effects in female rats.

The human equivalent concentration (HEC) was calculated using the standard RfC approach, a physiologically based pharmacokinetic (PBPK) approach, a benchmark concentration (BMC) approach, and a PBPK/BMC approaches combined. The PBPK/BMC approach was determined by the IRIS Peer Review Panel to provide the best estimate of a HEC because it incorporated much of the mechanistic information available for EGBE, best characterized the dose-response relationship for EGBE-induced hematologic effects, and reduced the potential uncertainties to the greatest extent. The HEC as determined by the PBPK/BMC method was then reduced by a series of uncertainty factors to derive the RfC. An overall uncertainty factor (UF) of 30 was applied to account for extrapolation from an adverse effect (UF = 3) and to account for the variation in the sensitivity within the human population (UF = 10).

The principal study for the ingestion RfD involved groups of 10 female F344 rats exposed to 750, 1,500, 3,000, 4,500, and 6,000 ppm of EGBE via drinking water for 13 weeks. Decreases in body weight were observed in female rats exposed to the two highest dose levels. The study results show hematologic changes at all dose levels after 13 weeks that were indicative of mild to moderate anemia. Using this study, EPA calculated human equivalent doses (HED) using all four approaches. We selected the PBPK/BMD approach for the derivation of the RfD because it incorporated much of the mechanistic information available for EGBE, best characterized the dose-response relationships for EGBE-induced hematologic effects, and reduced the potential uncertainties to the greatest extent. Using the HED from the PBPK/

BMC model, and a total UF of 10 to account for variation in sensitivity within the human population (UF = 10), the EPA determined that the IRIS RfD was 0.5 mg/kg/day.

The IRIS review states that EGBE has been adequately tested in conventional genotoxicity tests for its potential to induce gene mutations in *in vitro* systems and cytogenetic damage in both *in vitro* and *in vivo* systems. The available data do not support a mutagenic or clastogenic potential for EGBE. The EPA's Toxicological Review of EGBE, available at <http://www.epa.gov/iris/toxreviews/0500-tr.pdf#page=68>, states that one laboratory has reported weak genotoxicity responses at toxic doses, though these data are considered to be questionable, may be a result of impurities in the test material.

In addition, the 1999 IRIS describes structure-activity relationship (SAR) analyses that have been conducted to provide insight into EGBE's potential carcinogenicity to humans. These analyses have been found to be useful for agents that are believed to initiate carcinogenesis through Deoxyribonucleic Acid (DNA) reactive mechanisms. Based on chemical structure, EGBE does not resemble any known chemical human carcinogens and is not expected to have electrophilic or DNA reactive activity. The IRIS review states that there are no reliable epidemiologic studies available that address the potential carcinogenicity of EGBE.

The IRIS review utilized a draft report of the results of a 2-year inhalation bioassay performed by the National Toxicology Program (NTP, 1998) using rats and mice that had recently become available. The NTP (1998) report indicates no evidence of carcinogenic activity in male F344/N rats, and equivocal evidence of carcinogenic activity in female F344/N rats based on increased combined incidences of benign and malignant pheochromocytoma (mainly benign) of the adrenal medulla. They also reported some evidence of carcinogenic activity in male B6C3F1 mice based on increased incidences of hemangiosarcoma of the liver, and some evidence of carcinogenic activity in female B6C3F1 mice based on increased incidences of forestomach squamous cell papilloma or carcinoma (mainly papilloma).

The IRIS discusses the relevance of these tumors to humans. For example, the pheochromocytoma in the female rats were indicated as only a marginally significant trend. Further, these types of tumors are difficult to distinguish from

non-neoplastic adrenal medullary hyperplasia, and therefore need to be interpreted with caution. The hemangiosarcoma in livers of male mice appear to be exposure related. However, the increases were slight and, like the forestomach lesions in female mice, were not observed in any other sex or species. There is also evidence to suggest that these cancer lesions in mice are associated with unique aspects of mouse physiology (*i.e.*, the known increased sensitivity of mice to oxidative stress and the existence of a forestomach), and are secondary to noncancer (*i.e.*, hemolysis and forestomach irritation) effects.

The IRIS concludes that because of the uncertain relevance of these tumor increases to humans, the fact that EGBE is generally negative in genotoxic tests, and the lack of human data to support the findings in rodents, the human carcinogenic potential of EGBE, in accordance with the recently proposed Guidelines for Carcinogen Risk Assessment (U.S. EPA, 1996a), cannot be determined at this time, but suggestive evidence exists from rodent studies. Therefore, under existing EPA guidelines, EGBE is judged to be a possible human carcinogen.

Since the publication of NTP's draft report (NTP, 1998) on their 2-year inhalation bioassay of EGBE, and since the IRIS update of December 1999, there has been continued discussion among scientists from government, industry, and academia concerning the human carcinogenic potential of EGBE. The NTP (2000a) finalized their study results without changing their original determination of equivocal evidence of carcinogenic activity in female rats, some evidence of carcinogenic activity in male mice, and some evidence of carcinogenic activity in female mice. These findings by NTP, along with the EPA's conclusion in the 1999 IRIS assessment that the carcinogenic potential of EGBE "cannot be determined at this time, but suggestive evidence exists from rodent studies", prompted scientists from academia and industry to design research projects aimed at determining the mode of action for the formation of the forestomach and liver tumors observed in mice. We report here on recent findings in scientific publications, from scientific meetings and in the EPA (1999b) draft cancer guidelines, to provide an up-to-date evaluation of the mode of action involved in the origin of these tumors in mice and their human relevance.

Establishing the mode of action is critical for determining an effect's relevance to humans and for choosing the approach most appropriate for dose-

response modeling (*i.e.*, whether to use a linear or nonlinear approach). As is extensively discussed in the Agency's interim and draft cancer guidelines (U.S. EPA, 1999b; 2003), in order to determine a chemical's mode of action, one must consider the full range of key influences a chemical or its metabolites might have as an initiator or promoter of the complex carcinogenic process. With this in mind, we evaluated EGBE's role in the formation of female mouse forestomach and male mouse liver tumors that were observed following two-years of inhalation exposure (National Toxicology Program, 2000a). Our August 2003 interim final report provides details of this evaluation.

With regard to forestomach papillomas and carcinoma in female mice, the NTP study (NTP 2000a) shows that at the highest exposure level, 250 ppm, the 10 percent incidence of squamous papilloma and 12 percent combined incidence of squamous cell papillomas or carcinomas were significantly increased over study controls and exceeded the ranges for historical controls of 0–2 percent and 0–3 percent, respectively. This study reports that 8 percent is the highest incidence of forestomach neoplasms that has been observed in contemporary historical controls. NTP (2000a) did not observe significant increases in forestomach papillomas and carcinomas at any other exposure levels in female mice, nor at any exposure level in male mice or either sex of rats.

Recent reviews of available *in vitro* and *in vivo* genotoxicity assays are in agreement that EGBE is not likely to be genotoxic (Commonwealth of Australia, 1996; Elliot and Ashby, 1997; U.S. EPA, 1999a; NTP, 2000a). The NTP (2000a) suggested that EGBE caused chronic irritation leading to forestomach injury including penetrating ulcers and that the observed "neoplasia (papillomas and one carcinoma) was associated with a continuation of the injury/degeneration process."

The Agency believes that EGBE is not genotoxic and that a nonlinear mode of action is principally responsible for the increased forestomach tumor incidence reported by NTP (2000a). However, reports of weak positive effects by EGBE at high concentrations in some *in vitro* assays (see discussion in full report located in the docket under "Other Possible Modes of Action for Forestomach Tumor Development in Female Mice") indicate the potential for contribution from direct interaction of butoxyacetaldehyde (BAL), an EGBE metabolite, with DNA. While these weak positive findings may be due to study design artifacts (*e.g.*, changes in

pH or osmolality associated with high EGBE concentrations), they may indicate contribution from BAL which has caused clastogenic changes in Chinese hamster lung (v79) and human lymphocyte cells (Elliot and Ashby, 1997). As we discuss in the full report, available evidence from a published EGBE PBPK model that has been modified to include kinetics for the metabolism of the BAL intermediate (Corley, 2003) suggests that the conditions of these in vitro assays (*e.g.*, no metabolic activation; high, cytotoxic concentrations of BAL) are of little relevance to expected target organ (forestomach) environment (*e.g.*, high metabolic activity; low concentrations of BAL). However, additional research (*e.g.*, verification of these PBPK modeling results and further genotoxicity research using more appropriate assays and currently accepted test protocols) would be beneficial to provide a more definitive determination regarding the role of BAL in the formation of forestomach tumors in female mice.

We conclude that the available data establish a plausible nonlinear, nongenotoxic mode of action for the moderate increase observed by NTP (2000a) in the incidence of forestomach tumors in female mice following chronic inhalation exposure to EGBE. Forestomach tissue irritation caused by constant exposure to EGBE and its metabolites and subsequent cell proliferation appear to be key precursor events in the mode of action for these tumors. While certain dosimetric processes and morphological aspects of the forestomach make rodents particularly susceptible to these events, we judge this mode of action to be of qualitative relevance to humans. However, due to the lack of a comparable organ for storage and the long term retention of EGBE, the exposure concentrations that would be necessary to cause hyperplastic effects and tumors in humans, if attainable, are likely to be much higher than the concentrations necessary to cause forestomach effects in mice. In fact, our analysis indicates that the exposure concentrations necessary to cause hyperplastic effects in humans would be much higher than the existing RfD and RfC for EGBE. Given that humans, including potentially sensitive subpopulations such as children, have no known organ for the retention of a comparable target dose of EGBE or its metabolites, we feel it is reasonable to conclude that the RfC and RfD developed for EGBE (EPA, 1999a) are sufficient for the prevention of

hyperplasia and associate tumors in humans.

With respect to liver tumors in male mice, scientists have placed particular focus on hemangiosarcomas of the liver reported by NTP (2000a) because this was the only tumor type that was increased over both concurrent and historical controls, and because one study proposed a mode of action involving EGBE for this tumor (Sascha *et al.*, 2002).

A metabolite of EGBE, butoxyacetic acid, has long been known to cause hemolysis in rodents (Carpenter *et al.*, 1956). This hemolysis leads to the accumulation of hemosiderin (iron) in phagocytic Kupffer cells of the liver of both rats and mice (NTP, 2000a). Recent research in mice and rats indicates that the increased iron levels associated with EGBE-induced hemolysis can produce oxygen radicals which produce oxidative damage in the liver that is more severe in mice than in other species, and increased DNA synthesis in both cells that line blood vessels and liver cells that is unique to mice (Sascha *et al.*, 2002). This research hypothesizes that these events can contribute to the transformation of the endothelial cells to hemangiosarcomas (and hepatocytes to hepatocellular carcinomas) in male mice. Given the high background rate of these tumors in male mice relative to female mice and rats (NTP, 2000b; Klaunig, 2002), we feel it is reasonable to hypothesize that the endothelial cells and hepatocytes in the livers of male mice are more susceptible to oxidative stress resulting from iron buildup in local Kupffer cells. While additional research would be informative with respect to mechanistic issues such as the relative susceptibility of endothelial cells and hepatocytes to oxidative stress caused by the hemolytic effects of EGBE and the apparent resistance of female mice to the development of hemangiosarcomas despite experiencing similar hemolytic effects, there is enough evidence at this time to support an EPA determination that events associated with hemolysis could have contributed to the increased incidence of these tumors in male mice exposed to EGBE.

Available data establish a plausible nonlinear, nongenotoxic mode of action for the moderate increase observed by NTP (2000a) in the incidence of liver tumors in male mice following chronic inhalation exposure to EGBE. The proposed mode of action suggests that the endothelial cells and hepatocytes of male mice are sensitive to the formation of the subject neoplasms (as evidenced by the relatively high background rate of these tumors in male mice) and that

excess iron from EGBE-induced hemolysis can result in sufficient iron-induced oxidative stress to cause the observed, marginal increase in the incidence of liver hemangiosarcomas and hepatocellular carcinomas in these animals (NTP, 2000a). Given the relatively low sensitivity of humans, including subpopulations such as children, to the hemolytic effects of EGBE, we feel it is reasonable to conclude that the EGBE RfC and RfD (EPA, 1999a) are sufficient for the prevention of hemolysis and associate tumors in humans.

We anticipate additional research may be completed in the near term. We will review those results and peer review our findings at the earliest opportunity.

D. Human Health Risk Characterization and Conclusions

We used a Hazard Quotient (HQ) approach to characterize the noncancer risk associated with the exposures to EGBE. In this case, the HQ is developed by comparing the level of exposure to the IRIS RfC or RfD for EGBE. If the HQ is less than 1, the reference level is not exceeded, and the adverse health effects are unlikely.

Based on our assessment of the information provided in the petition, it is possible to derive a quantitative evaluation of an inhalation HQ for EGBE. Based on our evaluation of the modeling data, we judge that maximum ambient annual average exposures to EGBE are not likely to exceed 0.3 mg/m³ for a single major source, or 0.5 mg/m³ for a group of closely located area sources. The reference level to be used in the determination of EGBE's HQ is the RfC of 13 mg/m³. This criterion addresses the health effect of concern due to chronic inhalation exposures to EGBE. In addition, the criterion includes the margins of safety built into the IRIS RfC (*i.e.*, any needed uncertainty factors to address sensitive subpopulations and other factors) and is, therefore, protective of sensitive subpopulations.

Using this approach, we calculate an HQ for the maximum annual ambient concentration of EGBE from a single major source to be 0.02. In other words, the EGBE air concentration is 2 percent of the RfC. For closely located area sources, the HQ is 0.04, or 4 percent of the RfC. To be extremely conservative, we might assume that the single major source is located among the group of area sources. In this case, the maximum annual ambient average concentration would be 0.8 mg/m³ and the HQ would be 0.06, or 6 percent of the RfC. All HQ are well below the health criterion of an HQ of 1. Further, we judge that the

exposures to EGBE of actual persons living in the immediate vicinity of EGBE emission sources would be significantly less than the concentrations estimated by the model. Considering such things as human activity patterns and that predicted ambient concentrations fall significantly from those predicted by the models, we expect that the HQ for most of the surrounding population would be several orders of magnitude less than one.

We also use a Hazard Index (HI) approach to characterize the potential for EGBE exposures to cause adverse effects when combined with typical exposures to pollutants that also affect the circulatory system. In this case, we rely on the 1996 National Air Toxics Assessment (NATA) which estimates risks to certain HAP by census blocks. The NATA results indicate that more than 99 percent of the census blocks have circulatory system HI below 0.1. As such, even when combined with other exposures to circulatory system toxicants, EGBE exposures would result in HI that are well below 1.0 and, therefore, would not be associated with risk of adverse effects.

The reference level we used to determine EGBE's ingestion HQ is the IRIS RfD of 0.5 (mg/kg/day). Based on our analysis, we judge that maximum exposures to EGBE via ingestion of water contaminated with EGBE from air releases is not likely to exceed 0.28 mg/kg/day. The resulting HQ is 0.6. In other words the concentration in the environment is 60 percent of the RfD. Given the conservative nature of the parameters used to derive the average daily intake, we conclude that the actual HQ will be significantly less than 0.6.

Therefore, based on information presented in the petition, EPA's evaluation of data made available after the submission of the petition, and our own supplemental analyses, we have made an initial determination that emissions, ambient concentrations, bioaccumulation or deposition of EGBE may not reasonably be anticipated to cause any adverse effects to human health.

E. Ecological Risk Characterization and Conclusions

We developed an independent ecological risk assessment (ERA) to evaluate the potential environmental impacts of EGBE emissions. We organized our analysis according to EPA's framework for ecological risk assessment and followed a two tiered approach. Under this approach, the tier 1 analysis used conservative point estimates of exposure (maximum possible concentration in the

environment) and effect (e.g., national ambient water quality criterion). If the tier 1 analysis indicated that a conservative estimate of exposure would not exceed a very sensitive effects threshold (i.e., quotient <1), the analysis was terminated. If the tier 1 analysis indicated the potential for effect (i.e., quotient >1), the analysis proceeded to tier 2. In tier 2, more realistic assumptions were made about exposure and effects. If the tier 2 quotients were less than one, the analysis was terminated. However, if one or more of the tier 2 quotients were greater than one, the risk assessment would proceed to a probabilistic risk assessment.

Because EGBE concentrations will be the highest close to the emission source and because it is unlikely to be transported widely due to its short half-life in air and its propensity to partition from air to soil and water, we decided that the appropriate spatial modeling scale for the analysis was local. Using the petitioner's dispersion modeling analysis, we selected the single facility from the inventory that was the source of the largest maximum predicted annual concentration of EGBE as predicted by the ISCST3 model. This maximum annual average concentration was then used in conjunction with a Mackay Level I fugacity model to determine a steady state equilibrium concentration of EGBE in soil, water, and sediment in a simulated environment situated at the fence line. (Due to the relatively short distance from the source to the fence line, we assumed EGBE to disperse in the atmosphere as a passive tracer, not subject to removal through deposition or chemical reaction during transport.)

We developed exposure scenarios for small mammals and aquatic species and derived a quotient to characterize the potential ecological risk. The tier 1 ERA suggested that EGBE may have the potential to cause adverse effects to small mammals and to sensitive aquatic biota residing close to and downwind of the largest emitting source. This determination was, at least in part, due to the conservatism of tier 1 analysis, and the fact the decision criterion for these quotients were derived from very minor effects which were unlikely to be ecologically significant at the population level of ecological organization.

The tier 2 analysis combined a Level III Mackay Model and the ISCST3 outputs for the largest source. The Level III fugacity model takes into account reaction, advection and intermedia exchange after emission to the atmosphere. Based on the fugacity/

ISCST3 approach, the estimated EGBE concentrations in air, soil, and water were determined to be 0.3 mg/m³, 0.07 mg/kg, and 3.64 mg/L, respectively.

The lowest aquatic acute toxicity value available was for the protozoan *Endosiphon sulcatum* which experienced a 5 percent inhibition of cell multiplication at 91 mg/L following a 72-hour exposure. Due to the relatively minor effect reported and because the protozoa were exposed over several generations during the 72-hour period, we applied an acute/chronic adjustment factor of 10 to derive a safe level (i.e., toxicity reference value (TRV)) of 9 mg/L for aquatic biota in water.

The TRV for small mammals was based on the critical mammalian studies identified by IRIS for inhalation and oral exposure. Hemolysis was the critical endpoint of concern. A TRV of 20 mg/kg/day was derived by dividing the most sensitive LOAEL for female rats (59 mg/kg/day) by an uncertainty factor of three to adjust for the absence of a NOAEL.

Exposure scenarios were developed for each species and a quotient was calculated. In both cases, the quotient for aquatic invertebrates and small mammals was determined to be less than one. This suggested that both aquatic organisms and small mammals are not likely to be adversely affected by EGBE emissions to the atmosphere.

Based on our review of these data supplemented by additional environmental modeling, we have made an initial determination that there are adequate data on environmental effects of EGBE to determine that ambient concentrations, bioaccumulation, or deposition of EGBE are not reasonably anticipated to cause adverse environmental effects.

F. Transformation Assessment

Ethylene glycol monobutyl ether is one of many VOC that transform into other HAP after emission into the ambient air. The petition identifies the principal oxidation products of EGBE as n-butyl formate, 2-hydroxyethyl formate, propionaldehyde, 3-hydroxybutyl formate, and several isomeric forms of an organic nitrate compound. Only one of these compounds (i.e., propionaldehyde) is a listed HAP. However, the formate esters are known to transform in the atmosphere into formaldehyde, which is another listed HAP. In addition, propionaldehyde undergoes further transformation to formaldehyde and acetaldehyde (which is also a HAP). Both formaldehyde and acetaldehyde are probable human carcinogens and

have been identified by the EPA as among the 33 HAP of greatest concern under the Integrated Urban Air Toxic Strategy published in the **Federal Register** on July 19, 1999 (64 FR 38706).

The petitioner concluded that insignificant amounts of these compounds are formed as a result of secondary transformation of EGBE. After reviewing the petitioner's analysis, we concluded that it was a reasonable effort to determine whether EGBE transformation products are likely to be of concern. However, there were data gaps and additional questions which we judged to need further attention. Consequently, we undertook an independent analysis to estimate typical urban ambient air concentrations of formaldehyde, acetaldehyde, and propionaldehyde due to EGBE transformation. Our evaluation, summarized below, indicates that atmospheric transformation of EGBE emissions may not reasonably be anticipated to cause adverse effects to human health. The full transformation assessment is contained in the docket.

A large percentage of ambient formaldehyde and acetaldehyde is due to atmospheric transformation of VOC. In fact, the State of California has estimated that as much as 88 percent of the ambient formaldehyde and 41 to 67 percent of the ambient acetaldehyde arise from atmospheric transformation from VOC. The remainder is attributed to direct emissions. A previous analyses carried out as part of the EPA's Cumulative Exposure Project (CEP) in the mid-1990s suggests that EGBE transformation is not among the most significant contributors to ambient formaldehyde and acetaldehyde. The CEP analysis identified two pollutants (propene and ethene) as major contributors to ambient concentrations of formaldehyde, and two pollutants (propene and 2-butene) as the major contributors to acetaldehyde. Several other VOCs including EGBE were considered only minor precursors to formaldehyde and acetaldehyde in the CEP analysis.

Secondary formaldehyde is formed from EGBE via a two step process. First, EGBE with an average half-life of approximately 18 hours and a life time of about 25 hours transforms into intermediate compounds, such as formate esters and propionaldehyde. Second, these compounds transform into formaldehyde. Based on the information contained in the petition, formate esters have half-lives ranging from 21 hours to 55 hours. Propionaldehyde has a half-life of about 12 hours. Due to the relatively long time required to complete the

process, and the resulting large dilution of the EGBE reaction products in the atmosphere, we do not anticipate elevated concentrations of formaldehyde formation due to EGBE transformation near EGBE emissions points that will cause adverse effects to human health.

We have estimated that the half-life for EGBE to convert to formaldehyde through the two step process is approximately 37 hours. Assuming the average wind speed is about 3 miles per hour (mph), a plume from any given EGBE emission will travel about 111 miles in a 37-hour period. A conservative dispersion calculation at this point in time indicates that the plume is well dispersed such that EGBE concentrations are decreased by at least 300-fold from the predicted maximum fence line concentrations. Considering dispersion alone and the maximum fence line concentration for the largest EGBE emission source presented in the petition of approximately 330 micrograms per meter cube (ug/m^3) (*i.e.*, $0.3 \text{ mg}/\text{m}^3$), we can conservatively estimate that EGBE levels in typical urban areas might be as high as $1 \text{ ug}/\text{m}^3$. Concurrent with this dispersion, EGBE emissions transform relatively slowly into formaldehyde which, in turn, decomposes much more quickly. We estimate that the concentrations of formaldehyde due to EGBE transformation at this point would be roughly $0.06 \text{ ug}/\text{m}^3$.

Based on available ambient monitoring data for 82 urban area monitoring sites in 17 States, we determined that the ambient average concentration of formaldehyde in urban areas is about $2.8 \text{ ug}/\text{m}^3$. Therefore, we estimate that roughly 2 percent (*i.e.*, $0.06 \text{ ug}/\text{m}^3$) of the ambient formaldehyde could be due to EGBE transformation. However, due to the conservatism built into the estimation procedure, we feel this is an overestimate. We feel that the actual contribution of EGBE to formaldehyde levels is much less than 2 percent.

We also considered the risk to human health posed by ambient formaldehyde. Using EPA default exposure and risk assumptions (such as the assumption that there is no threshold for the carcinogenic effect and that the dose-response relationship is linear at low doses), the increased risk of cancer for people assumed to be exposed for a lifetime to the ambient concentration can be calculated by multiplying the ambient concentration by the cancer Unit Risk Estimate (URE). The URE is an upper bound estimate of the increased risk of cancer per unit of exposure for a lifetime. (The IRIS glossary defines

upper-bound as "a plausible upper limit to the value of a quantity. This is usually not a true statistical confidence limit".) The current URE for formaldehyde, as listed by IRIS, is 1.3×10^{-5} per microgram per cubic meter (per ug/m^3). (Note: The EPA periodically reviews and updates the toxicological information for chemicals on IRIS. Currently we are reviewing formaldehyde. As such, the URE may change, but based on currently available information, it is not likely to become higher than what is currently on IRIS.) This means that if people are exposed to 1 microgram of formaldehyde per cubic meter of air ($1 \text{ ug}/\text{m}^3$) for a lifetime, we estimate that they would have an estimated upper bound increased risk of cancer of 1.3×10^{-5} or 13 in a million. Therefore, if we assume people are exposed to the average ambient concentration of formaldehyde (*i.e.*, $2.8 \text{ ug}/\text{m}^3$) for a lifetime, we calculate the upper bound increased cancer risk for these people to be about 30 in a million, or 3×10^{-5} . Thus, while the total level of risk from ambient levels of formaldehyde is greater than one in a million (or 1×10^{-6}), a relatively small portion of these ambient levels is likely to be attributable to EGBE transformation.

Given the level of risk from formaldehyde generally, and because EGBE is likely to contribute less than 2 percent to the total ambient concentration of formaldehyde, we do not anticipate that formaldehyde from EGBE transformation will have an adverse impact on human health.

We also assessed the potential for adverse health effects other than cancer. No EPA RfC is available for formaldehyde for an assessment of noncancer risks. Therefore, we compared ambient levels to the minimal risk level (MRL) for formaldehyde, produced by the Agency for Toxic Substances and Disease Registry. The MRL for formaldehyde is $10 \text{ ug}/\text{m}^3$. The ambient outdoor levels of formaldehyde used for this analysis are less than the MRL, which suggests that adverse noncancer effects are not likely to result from exposures to these ambient outdoor concentrations.

Propionaldehyde is also produced by the secondary transformation of EGBE. The half-life of propionaldehyde is about 1.4 times shorter than the half-life of EGBE, which indicates that propionaldehyde degrades about 1.4 times faster than it is formed from EGBE. Assuming steady state, we have determined that the concentration of propionaldehyde (in ug/m^3) is expected to be roughly 2.8 times lower than the concentration of EGBE. Assuming that 1

ug/m³ is representative of the ambient EGBE concentrations expected in typical urban areas, based on monitoring data, we estimate that propionaldehyde concentrations resulting from degradation of these EGBE levels would be roughly 0.4 ug/m³.

Based on available monitoring data from 23 sites, the mean ambient air concentration of propionaldehyde is 0.94 ug/m³. The 95th percentile of the ambient monitoring data is 2.3 ug/m³. Since the ambient average concentration of propionaldehyde in urban areas is about 0.94 ug/m³, we estimated that as much as 40 percent (*i.e.*, 0.4 ug/m³) of the ambient propionaldehyde could be due to EGBE transformation.

Propionaldehyde is not classified as a carcinogen, and we were not able to locate data that indicated carcinogenic properties. Consequently, cancer risks due to the ambient levels of propionaldehyde were not evaluated. There are, however, very limited data on noncancer effects of propionaldehyde; but there are no RfCs or MRLs available.

The only noncancer benchmark found on propionaldehyde is a draft Preliminary Evaluation Concentration (PEC) of 9 ug/m³, developed in 1994 and presented in a draft EPA report titled: *Non-Cancer Benchmarks for Screening Hazardous Air Pollutants for the Urban Area Source Program. Draft for Peer Review.* (April 1994). The draft PEC is an interim screening level value and has not undergone peer review. It is based on the assumption that propionaldehyde exhibits toxic effects similar to acetaldehyde, but is less toxic than acetaldehyde. In deriving the PEC, several uncertainty factors were applied to account for various uncertainties and data limitations. Based on the approach to derivation, we believe that the PEC is probably protective, and that exposures to propionaldehyde at levels below 9 ug/m³ are not likely to pose significant risk of adverse noncancer health effects.

Using the PEC as a decision criterion, the mean ambient concentrations for propionaldehyde (about 0.94 ug/m³) and the 95th percentile (about 2.3 ug/m³) are well below the PEC of 9 ug/m³. Although we estimate EGBE transformation to contribute as much as 40 percent of the ambient concentration of propionaldehyde, we judge that adverse noncancer health effects are not likely to result due to transformation of EGBE to propionaldehyde.

Acetaldehyde is also formed from EGBE via a two step process. In this process, EGBE transforms to propionaldehyde which then further converts to one of 3 compounds: formaldehyde, acetaldehyde or

peroxypropionyl nitrate. As described previously in this section, we assumed that each EGBE molecule is converted to one propionaldehyde molecule in 25 hours and that half of the propionaldehyde converts into acetaldehyde in 12 hours. Based on these assumptions, we estimated that in approximately 37 hours, one half of the available EGBE molecules in the ambient air is converted to acetaldehyde molecules. The half-life of acetaldehyde is about 2.5 times shorter than the half-life of EGBE's conversion to acetaldehyde through the two step process, which indicates that acetaldehyde degrades about 2.5 times faster than it is formed from EGBE. Therefore, assuming steady state, the concentration of acetaldehyde is predicted to be roughly 6.7 times lower than the concentration of EGBE. Assuming that 1 ug/m³ is representative of the ambient EGBE concentrations that would be expected in typical urban areas, we estimate that acetaldehyde concentrations resulting from degradation of these EGBE levels would be roughly 6.7 times lower, or 0.15 ug/m³.

Since the ambient average concentration of acetaldehyde in urban areas is about 2.5 ug/m³ (based on available ambient monitoring data for urban areas), we estimated that roughly 6 percent or 0.15 ug/m³ of the ambient acetaldehyde could be due to EGBE transformation. We think this is a conservative estimate, and that the actual contribution of EGBE to acetaldehyde levels in typical urban areas is likely to be less than 6 percent.

To evaluate the potential risks for public health, the increased cancer risks can be estimated. The URE for acetaldehyde is 2×10^{-6} per ug/m³. (**Note:** As with formaldehyde, the URE for acetaldehyde is currently being reviewed by EPA and is likely to change. However, based on currently available information, the URE for acetaldehyde is not likely to become significantly higher, and may be much lower than the current value.) This means that if people are exposed to 1 microgram of acetaldehyde per cubic meter of air (1 ug/m³) for a lifetime, we estimate that they would have an estimated upper bound increased risk of cancer of 2.2×10^{-6} , or 2.2 in 1 million. Therefore, if we assume people are exposed to the average ambient concentration of acetaldehyde (*i.e.*, 2.5 ug/m³) for a lifetime, we calculated the upper bound increased cancer risk for these people to be about 6 in 1 million, or 6×10^{-6} . As with formaldehyde, the total risk level from ambient levels of acetaldehyde is greater than 1 in 1

million. However, only a relatively small portion of these ambient levels is attributable to EGBE transformation. Because EGBE is likely to contribute less than 6 percent of the total ambient concentration of acetaldehyde, we do not anticipate that acetaldehyde from EGBE transformation will have an adverse impact on human health.

We also evaluated the potential for noncancer hazards. The RfC for acetaldehyde is 9 ug/m³, which is higher than the reported ambient concentrations, therefore, we do not expect adverse noncancer effects to occur due to exposures to these outdoor ambient concentrations.

Based on our analyses, as well as information presented in the petition, we feel that EGBE transformation to HAP is not a significant concern for public health. Since EGBE transformation products are likely to pose relatively low risks in typical urban ambient air, and since EGBE emissions are not expected to result in elevated levels of formaldehyde, propionaldehyde, or acetaldehyde near EGBE emission sources that pose significant risks to human health, we have made an initial determination that the available data indicate that atmospheric transformation of EGBE emissions to other HAP is not reasonably anticipated to cause significant human health risks.

The quantitative estimates and the associated risk estimates presented above have some uncertainty associated with the estimates. This is due to the simplified approach, assumptions made, and incomplete knowledge of the atmospheric chemistry, and toxicity of the chemicals. However, we generally used conservative assumptions including: lifetime exposures; linear non-threshold dose-response relationship; conservative estimate of formaldehyde that would be formed per mole of EGBE transformed; and that the EGBE concentrations are 1 ug/m³. Therefore, we judge that the estimates of risk due to the transformation of EGBE to formaldehyde, propionaldehyde, and acetaldehyde as presented in this analysis are more likely to be overestimated rather than underestimated. Overall, this analysis suggests that the fractions of formaldehyde, propionaldehyde, and acetaldehyde in typical urban ambient air resulting from transformation of EGBE emissions are not likely to pose significant risks to human health.

The EPA also recognizes that EGBE is a potential tropospheric ozone precursor. However, we feel that it is inappropriate to include a substance on the HAP list under CAA section 112(b)

due entirely to its tendency to form ozone. Section 112(b)(2) of the CAA provides that no air pollutant which is listed under CAA section 108(a), such as ozone, may be added to the HAP list. It further provides that a pollutant that is a precursor to a pollutant listed under section 108(a), such as EGBE, may not be included on the HAP list unless it "independently meets" the HAP list criteria. As explained in this preamble, we feel that the petitioner has demonstrated that EGBE does not independently meet the criteria for listing as a HAP under section 112 of the CAA.

The CAA established requirements for reducing the emission of air pollutants, and deals separately with HAP (which are to be listed and regulated under CAA section 112) and criteria air pollutants (which are to be listed under CAA section 108 and regulate under various other sections of the CAA). Precursors of criteria air pollutants, such as VOC, are regulated for their contribution to ambient levels of criteria pollutants under statutory provisions that do not apply to HAP. This structure would lose its significance if EPA were to include substances on the HAP list solely as a result of their contribution to concentrations of criteria air pollutants.

G. Public Comments

We requested public comment as a part of the **Federal Register** notice announcing the receipt of a complete petition to delist EGBE (64 FR 42125-27). The comments contained no technical information or data which was relevant to our review of this petition. Copies of the comments have been included in the docket for the proposed rule.

H. Conclusions

Uncertainty is an inherent part of risk assessment. It arises because risk assessment is a complex process, requiring the integration of multiple factors, and because it involves predictions of risk that are not directly observable. In the analysis, uncertainty arises for the following reasons. The IRIS database, used as the source of the human health effects decision criteria, is imperfect and leads to uncertainty in the RfC. We also recognize that there is uncertainty in the computer models used to predict the fate and transport of EGBE in the environment. These models are simplifications of reality and some variables are excluded.

For decisions which are based largely on risk assessments, some degree of uncertainty is acceptable. Such is the case for this proposed delisting decision. We do not interpret CAA

section 112(b)(3)(C) to require absolute certainty that a pollutant will not cause adverse effects on human health or the environment before it may be deleted from the list. The use of the terms "adequate" and "reasonably" indicate that the Agency must weigh the potential uncertainties and their likely significance. To this end, the assessment applies conservative assumptions to bias potential error toward overstating human and ecological health effects. Thus, EPA is confident that even when we consider the uncertainties in the petition's initial assessment and in the additional analyses, the results are more likely to over-estimate rather than under-estimate true exposures and risks.

Based on our evaluation of the petition and the subsequent analyses, we judge that the potential for adverse human health and environmental effects to occur from projected exposures is sufficiently low to provide reasonable assurance that such adverse effects will not occur. For example, the petitioner appropriately applied EPA's model guidelines and EPA's tiered dispersion modeling approach which we designed to be conservative. Also, the petitioner used sound analytic principles in modifying the standard assessments described in the Tiered Approach, the inverted tier 1 and the CARTSCREEN analyses. In addition, the petition did not apply a formal exposure assessment to the predicted ambient air concentrations. Instead, the petition used the maximum annual ambient average air concentrations alone as a surrogate for exposure. Based upon the likely proximity of inhabitable areas and knowledge of human activity patterns, we feel that actual exposures will be far less than predicted exposures that were derived from the dispersion analysis. Further, when modeling clusters of EGBE sources, the petition showed that concentrations resulting from both closely located major and area sources are not likely to adversely affect health. Finally, the petition's analysis using available data from monitors suggest that ambient concentrations of EGBE in urban areas are over two orders of magnitude lower than the modeled maximum concentrations.

With regard to toxicity, the information available to the Agency at this time indicates that nonlinear modes of action are likely responsible for the increased incidence of tumors observed by the NTP (2000) in mice following chronic EGBE exposure. Application of nonlinear quantitative assessment methods indicate that the noncancer RfD of 0.5 mg/kg/day and the RfC of 13 mg/m³, which EPA developed for EGBE, are adequately protective of these

carcinogenic effects. This determination assumes a nonlinear mechanism that requires exposure levels to be high enough to cause certain lesions that are precancerous. Information is currently inadequate to dismiss the potential contribution of a linear mechanism associated with the possible mutagenic metabolite BAL. Additional research (e.g., verification of existing physiologically based pharmacokinetic modeling results and improved genotoxicity assays) would assist the Agency in making a more certain decision concerning the potential for BAL to contribute to the adverse effects seen in animals following EGBE exposure and use of the proposed nonlinear assessment approach. If additional information on BAL becomes available between the proposal and the final action on the delisting decision, EPA will evaluate and peer review such information. We may or may not determine that any new information would be relevant to our analysis of EGBE emissions.

As described above, EPA's proposed decision to remove EGBE from the list of HAP is based on the results of a risk assessment demonstrating that emissions of EGBE may not reasonably be anticipated to result in adverse human health or environmental effects. In addition to the analyses presented and the uncertainties inherent in risk assessment, we have considered other information related to EGBE in making this decision, namely the transformation of EGBE into other HAP as it decomposes in the ambient air. We conclude that ambient concentrations of the transformed HAP are very small, and that they decompose rapidly. Therefore, we do not anticipate that EGBE transformation will be significant enough to have an adverse impact on human health.

We also considered the fact that EGBE is reported to the Toxics Release Inventory (TRI) as part of the group of glycol ethers. The 2000 TRI shows the air emissions of the class of chemicals "Certain Glycol Ethers" to be ranked number 12 by volume. Under the proposed rule, it would no longer be regulated as a HAP, but it will continue to be reported in the TRI, as part of the group "Certain Glycol Ethers" and regulated under EPA's criteria pollutant (ozone) program.

In conclusion, EPA has made an initial determination, after careful consideration of the petition and after completing additional analyses, that there are adequate data on the health and environmental effects of EGBE to determine that emissions, ambient concentrations, bioaccumulation of

deposition of EGBE may not reasonably be anticipated to cause any adverse effects to the human health or adverse environmental effects.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that the proposed action does not constitute a "significant regulatory action" and is, therefore, not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The proposed action will remove EGBE from the CAA section 112(b)(1) HAP list and, therefore, eliminate the need for information collection under the CAA. 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. 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.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small business, small organizations, and small governmental jurisdictions. For the purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business that meets the definitions for small business based on the Small Business Association (SBA) size standards which, for this proposed action, can include manufacturing (NAICS 3999-03) and air transportation (NAICS 4522-98 and 4512-98) operations that employ less than 1,000 people and engineering services (NAICS 8711-98) operations that earn less than \$20 million annually; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impact of today's proposed rule on small entities, I certify that this proposed action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." (5 U.S.C. 603 and 604). Thus, an agency may certify that a rule will not have a significant economic impact on a

substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. The proposed rule will eliminate the burden of additional controls necessary to reduce EGBE emissions and the associated operating, monitoring and reporting requirements. We have, therefore, concluded that today's proposed rule will relieve regulatory burden for all small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 1044, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule contains no Federal mandates for State, local, or

tribal governments or the private sector. The proposed rule imposes no enforceable duty on any State, local or tribal governments or the private sector. In any event, EPA has determined that the proposed rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Because the proposed rule removes a compound previously labeled in the CAA as a HAP, it actually reduces the burden established under the CAA. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

Today's proposed rule removes the substance EGBE from the list of HAP contained under section 112(b)(1) of the CAA. It does not impose any additional requirements on the States and does not affect the balance of power between the States and the Federal government. Thus, the requirements of section 6 of the Executive Order do not apply to the proposed rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) requires EPA to

develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." The proposed rule does not have tribal implications, as specified in Executive Order 13175.

A review of the available emission inventory does not indicate that tribal EGBE emissions sources are subject to control under the CAA, therefore, the proposed rule is not anticipated to have tribal implications. In addition, the proposed action will eliminate control requirements for EGBE and, therefore, reduces control costs and reporting requirements for any tribal entity operating a EGBE source subject to control under the CAA which we might have missed. Thus, Executive Order 13175 does not apply to the proposed rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. The proposed rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This determination is based on the fact that the RfC is determined to be protective of sensitive sub-populations, including children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

The proposed rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a

significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 112(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104-113, section 12(d) 915 U.S.C. 272 note, directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test method, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards. The proposed rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 4, 2003.

Marianne Lamont Horinko,
Acting Administrator.

For the reasons set out in the preamble, title 40, chapter 1, part 63, of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart C—[Amended]

2. Subpart C is amended by adding § 63.61 to read as follows:

§ 63.61 Deletion of ethylene glycol monobutyl ether (CAS number 111-76-2) from the list of hazardous air pollutants.

The substance ethylene glycol monobutyl ether (EGBE) (2-Butoxyethanol) (CAS No. 111-76-2) is deleted from the list of hazardous air

pollutants established by 42 U.S.C. 7412(b)(1).

[FR Doc. 03-28787 Filed 11-20-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 123 and 501

[FRL-7589-7]

Water Pollution Control; State Program Requirements; Program Modification Application by Arizona To Administer the Sewage Sludge Management (Biosolids) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of application and public comment period.

SUMMARY: The State of Arizona has submitted a program modification application to EPA, Region 9 to administer the sewage sludge (biosolids) management program. According to the State's application, this program would be administered by the Arizona Department of Environmental Quality (ADEQ). The application from Arizona is complete and is available for inspection and copying.

DATES: The public comment period on the State's request for approval to administer the proposed AZPDES biosolids program will be from the date of publication until January 5, 2004. Comments postmarked after this date may not be considered.

ADDRESSES: *Viewing/Obtaining Copies of Documents.* You can view Arizona's application for modification from 8 a.m. until 5 p.m. Monday through Friday, excluding holidays, at the Arizona Department of Environment Quality, Records Management Center, 1110 W. Washington St., Phoenix, AZ 85007. Please call (602) 771-4378 to set up an appointment. A copy of Arizona's application is also available for viewing from 9 am to 4 pm, Monday through Friday, excluding legal holidays, at EPA Region 9, 12th floor, Water Division, 75 Hawthorne St., San Francisco, CA. Part or all of the State's application may be copied, for a minimal cost per page, at ADEQ's office in Phoenix or EPA's office in San Francisco. ADEQ's submission documents are also available on the Internet at: <http://www.adeq.state.az.us/envIRON/water/compliance/assurance.html#bio>.

Comments. Electronic comments are encouraged and should be submitted to mitchell.matthew@epa.gov. Please send a copy to varga.chris@ev.state.az.us.

Written comments may be sent to Matthew Mitchell (WTR-5), EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105. Please send an additional copy to Chris Varga, Surface Water Permits Unit, Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007. Public comments may be sent in either electronic or paper format. EPA requests that electronic comments include the commentor's postal mailing address. No Confidential Business Information (CBI) should be submitted through e-mail. Comments and data will also be accepted on disks in WordPerfect 8.0 format or ASCII file format. If submitting comments in paper format, please submit the original and three copies of your comments and enclosures. Commentors who want EPA to acknowledge receipt of their comments should enclose a self-addressed stamped envelope.

FOR FURTHER INFORMATION CONTACT: Matthew Mitchell at the above address by phone at (415) 972-3508, or by e-mail at mitchell.matthew@epa.gov.

SUPPLEMENTARY INFORMATION:

Background

Under section 402 of the Clean Water Act (CWA), 33 U.S.C. 1342, the EPA may issue permits allowing discharges of pollutants from point sources into waters of the United States, subject to various requirements of the CWA. These permits are known as National Pollutant Discharge Elimination System (NPDES) permits. Section 402(b) of the CWA, 33 U.S.C. 1342(b), allows states to apply to the EPA for authorization to administer their own NPDES permit programs.

Section 405 of the Clean Water Act (CWA), 33 U.S.C. 1345, created the sewage sludge management program, requiring EPA to set standards for the use and disposal of sewage sludge and requiring EPA to include sewage sludge conditions in some of the NPDES permits which it issues. The rules developed under section 405(d) are also self-implementing, and the standards are enforceable whether or not a permit has been issued. Section 405(c) of the CWA provides that a state may submit an application to EPA for administering its own sewage sludge program within its jurisdiction. EPA is required to approve each such submitted state program unless EPA determines that the program does not meet the requirements of sections 304(i) and/or 402(b) and 405 of the CWA or the EPA regulations implementing those sections.

On June 11, 2002, Arizona submitted an application to EPA for approval of a state-administered NPDES permit

program pursuant to CWA section 402(b). The Arizona NPDES program (known as AZPDES) was approved by EPA on December 5, 2002. Prior to its submission of the AZPDES program application, Arizona determined that it would submit a separate application for the CWA Section 405 biosolids program at a later date. EPA received the biosolids program submittal from Arizona on November 29, 2002. Arizona's application for the biosolids management program approval contains a letter from the Governor requesting program approval, an Attorney General's Statement, copies of pertinent State statutes and regulations, a Program Description, and a Memorandum of Agreement (MOA) to be executed by the Regional Administrator of EPA, Region 9 and the Director of ADEQ. The State submitted a modification of its Attorney General's Statement, which EPA received on October 10, 2003.

Biosolids and the State Biosolids Management Program

Biosolids, or sewage sludge, are the solids separated from liquids during treatment at a domestic or municipal wastewater treatment plant and treated to stabilize and reduce pathogens. EPA in 1993 adopted standards for management of biosolids generated during the process of treating municipal wastewater. 40 CFR part 503. The part 503 rules establishes standards under which biosolids may be land applied as a soil amendment, disposed in a surface disposal site, or incinerated, and requirements for compliance with 40 CFR part 258 if placed in a municipal landfill. The standards, designed to protect public health and the environment, include pollutant limits, pathogen reduction requirements, vector attraction reduction requirements, and management practices specific to the use or disposal option selected.

The Arizona biosolids management program imposes requirements on wastewater treatment plants, biosolids applicators, and surface disposal site operators. It also provides for the issuance of permits under certain conditions, enforcing the standards as necessary, and providing guidance and technical assistance to members of the regulated community. The program also includes a state-specific feature requiring a land applicator to register an application site with ADEQ before biosolids is applied to the site.

Indian Country

Arizona is not authorized to carry out its biosolids management program in Indian Country, as defined in 18 U.S.C. 1151.

Public Notice and Comment Procedures

Copies of all submitted statements and documents shall become a part of the record submitted to EPA. All comments or objections presented in writing to EPA, Region 9 and postmarked within 45 days of this document will be considered by EPA before it takes final action on Arizona's request for program modification approval. All written comments and questions regarding the biosolids management program should be addressed to Matthew Mitchell at the above address. The public is also encouraged to notify anyone who may be interested in this matter.

Public Hearing Procedures

At the time of this notice, a decision has not been made as to whether a public hearing will be held on Arizona's request for program modification. During the comment period, any interested person may request a public hearing by filing a written request which must state the issues to be raised to EPA, Region 9. The last day for filing a request for a public hearing is 45 days from the date of this notice; the request should be submitted to Matthew Mitchell at the above address. In appropriate cases, including those where there is significant public interest, EPA may hold a public hearing. Public notice of such a hearing will occur in the **Federal Register** and in enough of the largest newspapers in Arizona to provide statewide coverage and will be mailed to interested persons at least 30 days prior to the hearing.

EPA's Decision

After the close of the public comment period, EPA will decide whether to approve or disapprove Arizona's application for approval of its biosolids management program. EPA will consider and respond to all significant comments received before taking final action on Arizona's request for the biosolids program approval. The decision will be based on the requirements of sections 405, 402 and 304(i) of the CWA and EPA regulations promulgated thereunder. If the Arizona biosolids management program is approved, EPA will so notify the State. Notice will be published in the **Federal Register** and, as of the date of program approval, EPA will no longer serve as the primary program and enforcement authority for biosolids use and disposal within Arizona. EPA will remain the authority for biosolids use and disposal in Indian Country within Arizona. The State's program will operate in lieu of the EPA-administered program.

However, EPA will retain the right, among other things, to object to AZPDES permits proposed by Arizona and to take enforcement actions for violations, as allowed by the CWA. If EPA disapproves Arizona's biosolids management program, EPA will notify the State of the reasons for disapproval and of any revisions or modifications to the State program that are necessary to obtain approval.

Other Federal Statutes

National Historic Preservation Act

Section 106 of the National Historic Preservation Act, 16 U.S.C. 470(f), requires federal agencies to take into account the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) an opportunity to comment on such undertakings. Under the ACHP's regulations (36 CFR part 800), agencies consult with the appropriate State Historic Preservation Officer (SHPO) on federal undertakings that have the potential to affect historic properties listed or eligible for listing in the National Register of Historic Places. EPA, Region 9 is currently in discussions with the Arizona State Parks Board (which includes the SHPO) regarding its determination that approval of the State biosolids management program would have no effect on historic properties within the State of Arizona.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act (ESA) requires that all federal agencies, in consultation with the U.S. Fish and Wildlife Service, insure that any actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any Federally-listed threatened or endangered species or result in the destruction or adverse modification of their designated critical habitat. Regulations for consultation under ESA section 7 are codified at 50 CFR part 402. EPA, Region 9 has initiated informal ESA section 7 consultation with the U.S. Fish and Wildlife Service regarding Arizona's request for approval of its biosolids management program.

Regulatory Flexibility Act

Based on General Counsel Opinion 78-7 (April 18, 1978), EPA has long considered a determination to approve or deny a State Clean Water Act (CWA) program submission to constitute an adjudication because an "approval," within the meaning of the Administrative Procedure Act (APA), constitutes a "licence," which, in turn,

is the project of an "adjudication." For this reason, the statutes and Executive Orders that apply to rulemaking action are not applicable here. Among these are provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* Under the RFA, whenever a Federal agency proposes or promulgates a rule under section 553 of the APA, after being required by that section or any other law to publish a general notice of proposed rulemaking, the Agency must prepare a regulatory flexibility analysis for the rule, unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. If the Agency does not certify the rule, the regulatory flexibility analysis must describe and assess the impact of a rule on small entities affected by the rule. Even if the CWA program approval were a rule subject to the RFA, the Agency would certify that approval of the State proposed CWA program would not have a significant economic impact on a substantial number of small entities. EPA's action to approve a CWA program merely recognizes that the necessary elements of the program have already been enacted as a matter of State law; it would, therefore, impose no additional obligation upon those subject to the State's program. Accordingly, the Regional Administrator would certify that this Arizona biosolids management program, even if a rule, would not have significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective

or lease burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's decision includes no Federal mandates for State, local or tribal governments or the private sector. The Act excludes from the definition of a "Federal mandate" duties that arise from participation in a voluntary Federal program, except in certain cases where a "Federal intergovernmental mandate" affects an annual Federal entitlement program of \$500 million or more which are not applicable here. Arizona's request for approval of its biosolids management program is voluntary and imposes no Federal mandate within the meaning of the Act. Rather, by having its biosolids management program approved, the State will gain the authority to implement the program within its jurisdiction, in lieu of EPA, thereby eliminating duplicative State and Federal requirements. If a State chooses not to seek authorization for administration of a biosolids management program, regulation is left to EPA. EPA's approval of state programs generally may reduce compliance costs for the private sector, since the State, by virtue of the approval, may now administer the program in lieu of EPA and exercise primary enforcement. Hence, owners and operators of biosolids management facilities or businesses generally no longer face dual Federal and State compliance requirements, thereby reducing overall compliance costs. Thus, today's decision is not subject to the requirements of sections 202 and 205 of the UMRA. The Agency recognizes that small governments may own and/or operate biosolids management facilities that will become subject to the requirements of an approved State biosolids management program. However, small governments that own and/or operate biosolids management facilities are already subject to the requirements in 40 CFR

parts 123 and 503 and are not subject to any additional significant or unique requirements by virtue of this program approval. Once EPA authorizes a State to administer its own biosolids management program and any revisions to that program, these same small governments will be able to own and operate their biosolids management facilities or businesses under the approved State program, in lieu of the Federal program. Therefore, EPA has determined that this document contains no regulatory requirements that might significantly or uniquely affect small governments.

Dated: November 10, 2003.

Alexis Strauss,

Acting Regional Administrator, Region 9.

[FR Doc. 03-29177 Filed 11-20-03; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 53

[WC Docket No. 03-228; FCC 03-272]

Section 272(b)(1)'s "Operate Independently" Requirement for Section 272 Affiliates

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document initiates an inquiry regarding the Commission's rules implementing section 272(b)(1) of the Communications Act of 1934, as amended, (the Act) seeking comment on whether the Commission should modify the rules adopted to implement section 272(b)(1)'s "operate independently" requirement. Specifically, the Commission seeks comment on whether the operating, installation, and maintenance (OI&M) sharing prohibition is an overbroad means of preventing cost misallocation or discrimination by Bell operating companies (BOCs) against unaffiliated rivals. It also seeks comment on whether the prohibition against joint ownership by BOCs and their section 272 affiliates of switching and transmission facilities, or the land and buildings on which such facilities are located, should be modified or eliminated.

DATES: Comments are due December 8, 2003, and Reply Comments are due December 16, 2003.

FOR FURTHER INFORMATION CONTACT: Christi Shewman, Attorney-Advisor, Wireline Competition Bureau, at (202) 418-1686 or via the Internet at christi.shewman@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 03-228, FCC 03-272, adopted November 3, 2003, and released November 4, 2003. The complete text of this NPRM 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. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com. It is also available on the Commission's Web site at <http://www.fcc.gov>.

Synopsis of the Notice of Proposed Rulemaking (NPRM)

1. In this proceeding, the Commission seeks comment on whether the Commission should modify or eliminate its rules implementing the "operate independently" requirement of section 272(b)(1) of the Act. The Commission's seven years of experience in implementing the Telecommunications Act of 1996 leads it to re-examine the rules designed to ensure that section 272 affiliates "operate independently" as required by the statute. The Commission seeks to determine whether these rules continue to strike an appropriate balance between allowing the BOCs to achieve efficiencies within their corporate structures and protecting ratepayers against improper cost allocation and competitors against discrimination.

2. *Background.* Sections 271 and 272 establish a comprehensive framework governing BOC provision of "interLATA service." Pursuant to section 271, neither a BOC nor a BOC affiliate may provide in-region, interLATA service prior to receiving section 271(d) authorization from the Commission. Section 272 requires BOCs, once authorized to provide in-region, interLATA services in a state under section 271, to provide those services through a separate affiliate until the section 272 separate affiliate requirement sunsets for that particular state. Section 272 imposes structural and transactional requirements on section 272 separate affiliates, including the requirement under section 272(b)(1) to "operate independently" from the BOC.

3. In the *Non-Accounting Safeguards Order*, (62 FR 2927, January 21, 1997), the Commission concluded that the "operate independently" language of section 272(b)(1) imposes requirements

on section 272 separate affiliates beyond those detailed in section 272(b)(2) through (b)(5). As a result, the Commission adopted rules to implement the “operate independently” requirement that prohibits a BOC and its section 272 affiliate from (1) jointly owning switching and transmission facilities or the land and buildings on which such facilities are located; and (2) providing OI&M services associated with each other’s facilities. Specifically with regard to sharing OI&M functions, the Commission’s rules prohibit a section 272 affiliate from performing OI&M functions associated with the BOC’s facilities. Likewise, they bar a BOC or any BOC affiliate, other than the section 272 affiliate itself, from performing OI&M functions associated with the facilities that its section 272 affiliate owns or leases from a provider other than the BOC with which it is affiliated. At the time of the *Non-Accounting Safeguards Order*, the Commission reasoned that allowing joint ownership of facilities and sharing of OI&M functions between BOCs and their 272 affiliates would create opportunities for improper cost allocation and discrimination that the separate affiliate requirement was intended to prevent. At the same time, the Commission recognized that restrictions on sharing of facilities and services impose costs, including inefficiencies within the BOCs’ corporate structures, and that the economies of scale and scope inherent to integration produce economic benefits to consumers. The Commission explained that it was “striking an appropriate balance between allowing the BOCs to achieve efficiencies within their corporate structures and protecting ratepayers against improper cost allocation and competitors against discrimination.”

4. *Operating, Installation, and Maintenance Functions.* The Commission seeks comment on whether the cost data suggest that the costs of the OI&M sharing prohibition outweigh the benefits. It seeks comment on whether eliminating the prohibition on sharing OI&M functions would materially increase the BOCs’ ability or incentive to discriminate against unaffiliated rivals in the long distance market. The Commission also seeks comment on whether it would diminish the ability of the Commission to monitor and enforce compliance with the Act.

5. The Commission seeks comment on whether the potential savings to be gained by BOC operations and the potential for increased interLATA competition outweigh any benefits from continuing to apply the OI&M sharing

prohibition. It seeks comment on whether the OI&M sharing prohibition imposes inefficiencies and what the extent of those inefficiencies is. The Commission also seeks comment on the benefits to consumers of allowing more integrated OI&M operations between BOCs and their section 272 affiliates and on the magnitude of the risks and adverse consequences of possible anti-competitive conduct facilitated by OI&M sharing. Parties are asked to address in their comments the effectiveness of non-structural safeguards alone, rather than maintaining the OI&M sharing prohibition, to prevent and detect cost misallocation and discrimination.

6. *Joint Facilities Ownership.* In addition to the OI&M sharing prohibition, the Commission adopted a rule to implement section 272(b)(1) that prohibits joint ownership of switching and transmission facilities or the land and buildings on which such facilities are located. Although the Commission reaches no tentative conclusion with regard to this restriction, it seeks comment on whether it is needed to prevent cost misallocation and discrimination. Parties are asked to identify both the costs and benefits of maintaining or eliminating the joint facilities ownership restriction. The Commission seeks comment on whether existing non-structural safeguards are adequate to serve the purpose that the joint facilities ownership restriction was intended to serve. Parties are also asked to discuss whether any new safeguards may be needed in the event that the joint facilities ownership restriction is eliminated. Finally, commenters should address how a conclusion by the Commission to eliminate both the joint facilities ownership restriction and the OI&M sharing prohibition would relate to the Commission’s conclusion in the *Non-Accounting Safeguards Order* that the “operate independently” language of section 272(b)(1) imposes separate and independent requirements on section 272 separate affiliates beyond those detailed in section 272(b)(2) through (b)(5).

Initial Paperwork Reduction Act Certification

7. This NPRM may contain a new or modify an existing information collection. As part of our continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the possible changes in information collection contained in the NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public

and agency comments are due 60 days from the date of publication of this NPRM in the **Federal Register**.

Comments should address: (1) Whether the possible changes in the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the Commission’s burden estimates; (3) ways to enhance the quality, utility, and clarity of any information collected; and (4) ways to minimize the burden of any collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Initial Regulatory Flexibility Certification

8. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

9. In this NPRM, the Commission seeks comment on whether it should modify or eliminate the rules adopted to implement the “operate independently” requirement of section 272(b)(1) of the Act. Specifically, it seeks comment on whether the OI&M sharing prohibition is an overbroad means of preventing cost misallocation or discrimination by BOCs against unaffiliated rivals. The Commission also seeks comment on whether the prohibition against joint ownership by BOCs and their section 272 affiliates of switching and transmission facilities, or the land and buildings on which such facilities are located, should be modified or eliminated. The rules under consideration in this NPRM apply only to BOCs and their section 272 affiliates. Neither the Commission nor the SBA has developed a small business size standard specifically applicable to providers of incumbent local exchange service and interexchange services. The

closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. This provides that such a carrier is small entity if it employs no more than 1,500 employees. None of the four BOCs that would be affected by amendment of these rules meets this standard. The Commission next turns to whether any of the section 272 affiliates may be deemed a small entity. Under SBA regulation 121.103(a)(4), "SBA counts the * * * employees of the concern whose size is at issue and those of all its domestic and foreign affiliates * * * in determining the concern's size." In that regard, although section 272 affiliates operate independently from their affiliated BOCs, many are 50 percent or more owned by their respective BOCs, and thus would not qualify as small entities under the applicable SBA regulation. Moreover, even if the section 272 affiliates were not "affiliates" of BOCs, as defined by SBA, as many are, the Commission estimates that fewer than fifteen section 272 affiliates would fall below the size threshold of 1,500 employees. Particularly in light of the fact that Commission data indicate that a total of 261 companies have reported that their primary telecommunications service activity is the provision of interexchange services, the fifteen section 272 affiliates that may be small entities do not constitute a "substantial number." Because the proposed rule amendments directly affect only BOCs and section 272 affiliates, based on the foregoing, the Commission concludes that a substantial number of small entities will not be affected by our proposal.

10. Accordingly, for the reasons set forth above, the Commission certifies that the proposals in this NPRM, if adopted, will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the Notice, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA. This initial certification will also be published in the **Federal Register**.

Ordering Clauses

11. Accordingly, pursuant to the authority contained in sections 2, 4(i)-(j), 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 152, 154(i)-(j), 272, 303(r), this *Notice of Proposed Rulemaking* is Adopted.

12. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall Send a copy of this *Notice of Proposed Rulemaking*,

including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03-29054 Filed 11-20-03; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[DOT Docket No. NHTSA-03-15073]

RIN 2127-A167

Federal Motor Vehicle Safety Standards; Motorcycle Controls and Displays

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In this document, we (NHTSA) propose two regulatory alternatives to amend the motorcycle controls and displays standard. Each alternative would require that for certain motorcycles without a clutch control lever, the rear brakes be controlled by a lever located on the left handlebar. We also request comment on industry practices and plans regarding controls for motorcycles with integrated brakes. Finally, we propose minor changes to a table in the motorcycle controls and displays standard. This rulemaking responds to a petition from Vectrix Corporation.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than January 20, 2004.

ADDRESSES: You may submit your comments in writing to: Docket Management, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. Alternatively, you may submit your comments electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help & Information" or "Help/Info" to view instructions for filing your comments electronically. Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket at (202) 366-9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. Michael Pyne, Office of Crash Avoidance Standards at (202) 366-4171. His FAX number is (202) 493-2739. For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel, at (202) 366-2992. Her FAX number is (202) 366-3820. You may send mail to both of these officials at National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

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I. What Does FMVSS No. 123 State at Present?

Federal Motor Vehicle Safety Standard (FMVSS) No. 123, *Motorcycle controls and displays*, specifies requirements for the location, operation, identification, and illumination of motorcycle controls and displays. The

purpose of FMVSS No. 123 is to minimize accidents caused by operator error in responding to the motoring environment, by standardizing certain motorcycle controls and displays.

Among other requirements, FMVSS No. 123 (at S5.2.1, Table 1) requires the control for a motorcycle's rear brakes to be located on the right side of the motorcycle and be operable by the rider's right foot. Section S5.2.1 at Table 1 also requires the control for a motorcycle's front brakes to be located on the right handlebar.

Although the rear brake control is generally operated by the rider's right foot, FMVSS No. 123 permits a "motor-driven cycle"¹ to have its rear brake controlled by a lever on the left handlebar. FMVSS No. 123 also states that, if a motorcycle has an "automatic clutch" (*i.e.*, a transmission which eliminates the need for a clutch lever) and a supplemental rear brake control (in addition to the right foot control), the supplemental control must be located on the left handlebar. If a motorcycle is equipped with a single control for both the front and rear brakes, that control must be located and operable in the same manner as a rear brake control.

II. How Did This Rulemaking Begin?—Vectrix Petition

In a letter dated November 4, 1998, the Vectrix Corporation of New Bedford, Massachusetts, manufacturers of electric scooters, petitioned for rulemaking to change the rear brake control requirement in FMVSS No. 123 to permit the "rear brake to be actuated by the left hand for vehicles with an automatic or fixed ratio [single speed] transmission."

The regulatory change proposed in Vectrix's petition would result in any motorcycle (not just a motor-driven cycle) having its rear brake control on the left handlebar, as long as a clutch lever (which otherwise would have to be placed on the left handlebar) was not present. Vectrix stated the following about motorcycles without clutch levers:

[T]he left hand of the rider is free to operate a brake lever, making the foot pedal mechanism unnecessary. Left hand braking is also more desirable from the standpoint of international harmonization, since motorcycles and scooters with automatic or fixed ratio transmissions sold in Europe and Asia have rear brake controls mounted on the left handlebar. The rear brake pedal required for sale in the United States would not meet with much acceptance in European and Asian markets, and manufacturers seeking to

sell products both domestically and abroad face the unnecessary complication of producing two separate models.

In a letter dated August 29, 2002, NHTSA granted Vectrix's petition for rulemaking.

III. Why NHTSA Granted This Petition—Petitions for Temporary Exemption

NHTSA decided to grant Vectrix's petition for rulemaking in light of a number of recent petitions we have received requesting temporary exemption from the rear brake location requirement of FMVSS No. 123. Since 1999, we have granted several petitions for temporary exemption from the brake control location requirements.² These petitions have come from manufacturers of scooters with automatic transmissions and handlebar-mounted brake controls, which is a common arrangement for scooters sold in Europe, Asia, and other parts of the world outside of the United States. These manufacturers wished to sell their scooters in the United States but were prevented from doing so by the requirement that motorcycles be equipped with a right foot control for the rear brake. Their scooters would be able to meet all other Federal motor vehicle safety standards applicable to motorcycles.

A. Aprilia's Petition for Temporary Exemption

Aprilia S.p.A. of Noale, Italy, was the first manufacturer to petition for a temporary exemption from S5.2.1 (Table 1) of FMVSS No. 123. For the rear brakes, Aprilia's Leonardo 150 motorcycle had a left handlebar control, not the right foot control specified in FMVSS No. 123. Aprilia petitioned to be permitted to use the left handlebar as the location for the rear brake control for the Leonardo 150. The Leonardo's 150 cc engine produces more than the five horsepower maximum permitted for motor-driven cycles, so that it could not

² (1) Aprilia: Leonardo 150 sport (64 FR 44264, 8/13/99); Scarabeo 150 touring, reissued (65 FR 1225, 01/07/00); Habana 150 cruiser (66 FR 59519, 11/28/01).

(2) Vectrix: Electric scooter (64 FR 45585, 8/20/99).

(3) Italjet S.p.A.: Torpedo 125, Formula 125, Millennium 125, and Millennium 150 (64 FR 58127, 10/28/99).

(4) Piaggio: Vespa ET4 125 and 150 (65 FR 64741, 10/30/00).

(5) Honda: NSS250 (65 FR 69130, 11/15/00); FJS600 (66 FR 59519, 11/28/01).

(6) Rex Products, Inc. dba Bajaj USA: Saffire 90cc (66 FR 39222, 7/27/01).

Grant of these petitions has allowed the manufacturers to sell up to 2500 of each noncomplying scooter in the United States during the two-year period of exemption.

have its rear brake controlled by a lever on the left handlebar. According to Aprilia, the frame of the Leonardo "has not been designed to mount a right foot operated brake pedal, which is a sensitive pressure point able to apply considerable stress to the frame, causing failure due to fatigue * * *" Aprilia, as a motor vehicle manufacturer new to the U.S. market, stated that it "intends to begin sales into the United States for market testing purposes during the 1999 sales year and would like to present a model line including the Leonardo 150 motorcycle." Without NHTSA's grant of a temporary exemption from S5.2.1, of FMVSS No. 123, Aprilia would not have been able to sell the vehicle in the United States. Aprilia requested an exemption for calendar years 1999 and 2000.

B. Motorcycle Crash Causation Studies

When NHTSA received Aprilia's petition, there was little current information available on motorcycle crashes with adequate detail to identify important issues such as to what extent riders' unfamiliarity with motorcycle controls results in crashes. Earlier studies in the area of motorcycle crash causation indicated that ineffective use of brakes is a problem area for crash-involved motorcyclists. NHTSA's 1981 Report on Motorcycle Accident Causation (DOT-HS-805-862), which is still the most comprehensive study of motorcycle crashes, cites lack of rider experience with the motorcycle as an important cause of crashes. Lack of rider experience may include unfamiliarity with the controls. The report's in-depth review of 900 cases showed that riders lacked emergency braking skills, used front and rear brakes together in only 17 percent of the crashes and used the rear brake alone in 18.5 percent of the crashes. After reviewing crash information and conducting interviews, the report concluded that riders failed to use basic motorcycle riding skills during emergencies. The report suggested that the most obvious non-regulatory solution to riders' poor brake application skills was for riders to gain more experience and training for emergencies.

In a 1998 paper titled "Motorcycle Braking Controls—An Ergonomic Dilemma,"³ Rudolph G. Mortimer of the University of Illinois, Urbana-Champaign, pointed out that in the instant of an emergency, riders often do not use the front brake effectively. Mortimer concluded that motorcyclists often favored the rear, foot-operated

¹ "a motorcycle with a motor that produces five brake horsepower or less" (49 CFR section 571.3)

³ Proceedings of the Silicon Valley Ergonomics Conference and Exposition, ErgoCon '98.

brake in normal driving and that it was therefore not surprising that they mostly used the rear brake when a crash was imminent.

These research reports provided valuable information in an area where reliable data are scarce. However, it is not clear from the reports or any other available literature whether the reliance of riders on the rear brake in emergencies has anything to do with the placement of the rear brake control. More specifically, the reports did not add to our understanding whether lack of standardization of the controls caused rider error in emergencies, or if overall unfamiliarity with the motorcycle was the more important factor in crashes.

The agency is addressing other motorcycle safety issues by issuing a *Motorcycle Safety Program* (January 2003), which calls for new program actions to supplement existing initiatives to reduce the number of motorcycle fatalities and injuries. Motorcyclist fatalities have increased from 2,116 in 1997 to 3,181 in 2001, an increase of over 50 percent. *The Motorcycle Safety Program* may be viewed at <http://www.nhtsa.dot.gov/people/injury/pedbimot/motorcycle>.

C. Brake Control Location Study Funded by Aprilia

Because the available studies did not show a connection between rear brake control location and crashes, before we granted Aprilia's petition for temporary exemption for the Leonardo 150, we asked Aprilia to comment on our concern that a left hand rear brake control on a vehicle that is more powerful than a motor-driven cycle may confuse riders, resulting in crashes. As earlier stated, the purpose of FMVSS No. 123 is to "minimize accidents caused by operator error in responding to the motoring environment, by standardizing certain motorcycle controls and displays." Our concern was that differing rear brake control locations may contribute to unfamiliarity with a motorcycle's controls and thus degrade a rider's overall braking reaction beyond what would exist on a motorcycle with a conventionally configured (right foot operable) control.

Aprilia responded by hiring Carter Engineering of Franklin, Tennessee, to conduct a study comparing braking reaction times of riders on an Aprilia scooter without a foot brake and a conventional scooter with a foot brake. The report on that effort, "Motor Scooter Braking Control Study" (Report No. CE-99-APR-05, May 1999), may be reviewed at the Department of Transportation's Docket at <http://>

dms.dot.gov, Docket No. NHTSA-98-4357.

In the Carter Engineering study, test subjects (adults test-riding the scooters) compared rear braking on a Leonardo 150 with a Yamaha XC-125 Riva with a conventional foot-operated rear brake. The two test scooters were arranged side-by-side facing a traffic signal light positioned several yards away at approximately eye level. Test subjects with varying degrees of motorcycle riding experience were selected randomly from among dealership employees and customers. Each subject simulated "riding" both models, which were stationary on their center stands during the testing. The test subjects responded to the traffic signal by activating the brakes whenever a red light was observed. The subjects' braking reaction times were measured electronically.

The study concluded that the subjects' braking response times on the Leonardo were shorter on average than those measured on the Yamaha scooter with conventional right-foot mounted brake controls. Aprilia commented that "[o]verall, the test subjects' reaction times on the Leonardo were approximately 20 percent quicker than their reaction times on the conventional motorcycle." Aprilia stated its belief that "a less complex braking arrangement like that of the Leonardo will improve rider reaction in an emergency situation."

We note that the test subjects, selected at a franchised dealer of Honda, Yamaha, Suzuki and Kawasaki motorcycles, were either employees or customers of the dealership. As such, all test subjects presumably have experience in riding motorcycles or scooters, and are probably not novice riders. We have no indication of how much the test subjects knew about the study, or whether they were informed of what would be the desired braking results, from Aprilia's and Carter Engineering's viewpoint.

Nevertheless, Aprilia did provide some evidence, in the form of the Carter Engineering report, showing that American riders do not appear to hesitate in using a left handlebar-mounted rear brake control and that riders may actually gain some benefit in their braking response time. Based in part on the Carter Engineering study, we granted the Aprilia petition, interpreting the Carter Engineering report as an indication that the Leonardo 150 rider's braking response was not likely to be degraded by the different placement of the brake controls, thus addressing our main safety concern and meeting the

statutory requirement for grant of an exemption.

D. Search of NHTSA's Consumer Complaint Database

As an additional measure to determine whether there is a safety-related problem with placement of the motorcycle rear brake control, we conducted a search of the NHTSA database of consumer complaints, recalls, and service bulletins to look for problems arising from motorcycle brake controls. We found only one complaint since 1995 directly relating to brake controls. In that complaint, the owner of a model year 1997 touring motorcycle complained that the right foot brake was in a "somewhat awkward position," requiring the rider to rotate his ankle too far downward to achieve effective brake activation. Although FMVSS No. 123 specifies for the rear brake control, downward motion for the operator's right foot, the range of motion to actuate motorcycle foot brakes is not an aspect of performance regulated in FMVSS No. 123.

IV. The Regulatory Alternatives for Rear Brake Control Location

With the motorcycle crash causation studies and Carter Engineering tests as background, we propose two regulatory alternatives for the rear brake control location. After considering the comments on this proposal, we will adopt one of the alternatives in the final rule. The first alternative would require the rear brake control to be located on the left handlebar for any motorcycle that lacks a clutch, regardless of the motorcycle's configuration. The second alternative would require the left handlebar location only for clutchless motorcycles that are "scooters," a newly defined subset of motorcycles. Under either alternative, all other motorcycles would meet present FMVSS No. 123 rear brake location requirements that the rear brake is operated by a right foot control.

A. First Alternative

We propose the following as the first alternative: FMVSS No. 123 would specify two brake control configurations. The factor determining which of the two configurations the motorcycle manufacturer must use would be determined by whether the motorcycle is equipped with a clutch lever. Motorcycles with a clutch lever would be required to have the rear brake control on the right side operated by the rider's right foot. Motorcycles without a clutch lever would be required to have the rear brake control on the left handlebar and would have the option of

a supplemental control on the right side operated by the rider's right foot. For the front brake control, FMVSS No. 123 would continue to require a lever on the right handlebar in all cases.

If FMVSS No. 123 is amended in accordance with the first regulatory alternative, the present optional configuration allowed on motor-driven cycles (presently specified in FMVSS No. 123's Table 1, Column 2, Item 11) would become mandatory on any motorcycle without a clutch lever. Motorcycles without a clutch control include those with automatic transmissions, single speed motorcycles, and possibly in the future, motorcycles with manual transmissions but automatic clutches.

Regarding motorcycles with automatic transmissions, FMVSS No. 123 at S5.2.1 presently states: "If a motorcycle with an automatic clutch is equipped with a supplemental rear brake control, the control shall be located on the left handlebar." Under the first alternative proposal, this requirement would be modified because, on motorcycles with automatic transmissions, manufacturers may wish to provide a right foot control in addition to the left handlebar control for the rear brake. In effect, the brake control configuration for automatic transmission motorcycles would remain exactly the same as FMVSS No. 123 presently specifies, but the right foot control, rather than the left handlebar control, would be considered the supplemental control.

B. Second Alternative

For the second alternative, we propose a regulatory approach for the U.S. similar to what is already specified in European countries and in Japan. We propose that FMVSS No. 123 require that scooters without manual clutch levers have their rear brake control located on the left handlebar. This alternative would define "scooter" as a subset of motorcycles. We propose to use the "platform" on a motorcycle as the characteristic distinguishing "scooters" from "motorcycles." As further explained below, the ECE regulation allows the left handlebar location that we propose to require under this alternative. Specifying the left handlebar location for the rear brake control would maintain the highest degree of international harmonization.

1. How a "Scooter" Differs From Other "Motorcycles"

Scooters can be distinguished from other motorcycles by a number of design characteristics. First, they have a step-through frame architecture that leaves the space directly in front of the rider's

seat largely open to allow the rider to mount the seat without having to swing a leg over it. In contrast, other motorcycles almost always have their gas tanks and engines located in the space forward of the seat and have rigid frame members located there.

Second, scooters are characterized by having a platform or floorboard for the rider's feet built into the body structure. The platforms are in contrast with the foot pegs used on other motorcycles. Some other motorcycles may be equipped with individual platforms or floorboards for each of the rider's feet, but the individual platforms usually are not part of the body structure of the motorcycle as are the platforms on a scooter.

It is also noted that although they are usually smaller than full-size motorcycles, scooters often have engines generating more than five horsepower. Because they may exceed five horsepower, scooters may not qualify as "motor-driven cycles" as defined in 49 CFR part 571.3.

2. Advancing International Harmonization

Most of the scooter models which have been granted exemptions from FMVSS No. 123's rear brake control placement requirements are identical to scooter models sold in Europe and Japan. Currently, there is no regulatory or statutory definition in the Federal motor vehicle safety standards distinguishing scooters from other motorcycles. However, a relevant international regulation distinguishing scooters from other motorcycles is United Nations ECE Regulation No. 60, Addendum 59, which is the basis for national regulations concerning motorcycle controls in many European countries and Japan. ECE Regulation No. 60, Addendum 59 includes a definition of the term "platform" which means "that part of the vehicle on which the driver places his feet, when seated in the normal driving position, in the case that the vehicle is not equipped with riding pedals or footrests for the driver." The "riding pedals" refers to the pedals on mopeds, like those on bicycles, for propulsion. "Footrests" are defined in the ECE standard as "the projections on either side of the vehicle on which the driver places his feet when seated in the driving position," and they usually are in the form of foot pegs.

ECE Regulation No. 60, Addendum 59 allows a platform-equipped motorcycle, *i.e.*, a scooter, to have its rear brake controlled by a lever on the left handlebar if the scooter has an automatic transmission. If the scooter has a manual transmission, it must have

a foot control on the right side for the rear brake.

We note that ECE Regulation No. 60, Addendum 59 limits the use of a left handlebar lever for the rear brake to motorcycles which, in addition to having a platform, "have a maximum design speed not exceeding 100 km/h." One hundred kilometers per hour (or 62 miles per hour), once was a speed beyond the capability of most scooters, but today many scooters can exceed it. According to information provided by Honda Motor Co. and Aprilia, manufacturers in Europe and Japan are not required by the regulations of the individual nations in which they market their scooters to adhere to the 100 km/h maximum design speed portion of the requirement for placement of the rear brake control. The end result has been that scooters almost universally have their rear brake controls located on the left handlebars (since they also have automatic transmissions), even if they can attain speeds in excess of 100 km/h.

The approach taken in the second alternative describes motorcycles for which temporary exemptions for rear brake control placement were sought because the motorcycles were constructed to meet ECE Regulation No. 60, Addendum 59 (except for the 100 km/h maximum speed requirement). The approach taken in the second regulatory alternative would also achieve a measure of international harmonization with existing global regulations that has previously been lacking.

3. Supplemental Rear Brake Controls

Regarding supplemental rear brake controls, under the second alternative the present regulatory statement in S5.2.1 ("If a motorcycle with an automatic clutch is equipped with a supplemental rear brake control, the control shall be located on the left handlebar.") is still applicable because most motorcycles would continue to have a right foot pedal to control their rear brakes, and a supplemental rear brake control would be located on the left handlebar if no clutch lever was present, as FMVSS No. 123 requires at present. However, under this alternative, it would be necessary to specify that, if a platform-type motorcycle (scooter) with an automatic transmission has a supplemental rear brake control, it must be a right foot pedal. We have proposed this change in S5.2.1 of the draft regulatory language of the second alternative.

C. Motorcycles With Integrated Braking

1. The Honda Petition for Temporary Exemption

Among the requests for temporary exemption from FMVSS No. 123's right foot rear brake control requirements was one from American Honda Motor Company, Inc. for its NSS250 scooter, also called the "Reflex." The NSS250 scooter is equipped with an integrated braking system which replaces the dedicated rear brake control with a control connected to the rear brake caliper but also to one piston of the multi-piston front caliper, thus providing partial front brake application along with rear brake application. In accordance with FMVSS No. 123, a separate front brake control on the right handlebar activates the remaining front caliper pistons.

At present, FMVSS No. 123 at S5.2.1 specifies that, if provided, an integrated brake control must be located and operable in the same manner as a rear brake control. This provision addresses motorcycles which have only a single control for all braking functions, *i.e.*, those without separate front and rear brake controls. It also addresses systems with two separate controls in which one of the two is a control that applies braking force to both brakes, as in the case of the NSS250.

Under both proposed regulatory alternatives, on any motorcycle with a manual clutch, the control for an integrated brake system would have to be on the right foot pedal since that would be the required location of the rear brake control. For clutchless motorcycles, the first alternative would require that a control for an integrated brake system be located on the left handlebar. Under the second alternative, for clutchless scooters, there must be a control for an integrated brake system on the left handlebar. For all other clutchless motorcycles, the second alternative would require the integrated brake system control to be on the right foot pedal.

On the Honda NSS250, for example, the integrated brake system control is considered the rear brake control since it acts primarily on the rear brake caliper and is the only rear brake control provided. The NSS250 and other motorcycles with integrated braking systems would be able to comply with either regulatory alternative.

2. Supplemental Controls on Integrated Braking Systems

Since a motorcycle could be equipped with integrated braking as well as a supplemental brake control, it is necessary to specify that the

supplemental control provide the same integrated braking effect that is provided by the primary rear brake control. To allow a supplemental rear brake control that produced a different braking effect than the primary rear brake control may lead to rider confusion or hesitation.

To ensure that a supplemental brake control provides the same braking function as a primary rear brake control in cases where the primary control is an integrated control, we propose to add the following statement to S5.2.1: "The supplemental brake control shall provide brake actuation identical to that provided by the required control of Table 1, Item 11, of this Standard."

Because an integrated control may be located either on the left handlebar or on the right foot pedal depending on whether a motorcycle is clutchless (first alternative) or is a clutchless scooter (second alternative), we believe that it is important to make the regulatory text definitive on this issue. In order to clarify that an integrated brake control must be located as if it were a rear brake control, we have modified the last statement in S5.2.1 under both regulatory alternatives as follows: "If a motorcycle is equipped with self-proportioning or antilock braking devices utilizing a single control for front and rear brakes, the control shall be located and operable in the same manner as a rear brake control, *as specified in Table 1, Item 11, and in this paragraph.*" (Italicized language is new language that would be added to the texts of both regulatory alternatives.)

3. Request for Comments on New Developments in Motorcycle Integrated Braking Systems

Since the new type of braking system on the NSS250 has generated a high level of interest from members of the public, the agency seeks information about alternative configurations for motorcycle brake controls and other anticipated developments that might influence future brake system safety requirements. In particular, we are interested in finding out if integrated braking systems such as the current Honda system in which independent control of the front brake but not the rear brake remains possible, are likely to proliferate. We are also interested in knowing if motorcycle manufacturers are considering arrangements such as fully integrated brakes for which there would be one control for all brakes, where as in passenger automobiles and trucks, there are no separate controls for front and rear brakes. To gauge public response to some of these issues, we request responses to the following questions:

(1) Should the agency anticipate an increase in the use of or the demand for integrated brake systems similar to those that are currently in production, or for systems that integrate front and rear brakes to an even greater extent than current systems?

(2) Should the agency anticipate the emergence of completely integrated motorcycle brake systems in which separate control of front and rear brakes by the operator is no longer provided? If so, where should the single brake control be located and why?

(3) How should FMVSS No. 123 be formulated so that it remains relevant if partially or fully integrated motorcycle brake systems become more common?

(4) What brake control locations should FMVSS No. 123 specify now in order to anticipate future developments?

(5) How should FMVSS No. 122, *Motorcycle brake systems*, be revised to accommodate integrated motorcycle brake systems? How should the partial service brake system test be run?

(6) How would the emergence of completely integrated motorcycle brake systems facilitate harmonization of brake regulations where separate front and rear brake application is required?

We would be interested in any test data, crash data, simulation data, or other information that would support any suggested actions in this area.

V. Minor Revisions to Table 1

Column 2 of Table 1 in FMVSS No. 123 specifies motorcycle locations where specified controls must be placed. In three places in Column 2 of Table 1, the abbreviation "do." (for "ditto") is used at present. The text that is replaced by "do." is "Left handlebar" for item no. 4, "Horn," and "Right handlebar" for items no. 9 "Supplemental engine stop" and no. 10 "Front wheel brake." Because we are concerned that the term "do." may cause confusion, we propose to replace "do." in the three places it appears in Column 2 of Table 1 with the full text of the location, "Left handlebar" or "Right handlebar," as appropriate.

VI. Leadtime

We propose to make the amendments effective 12 months after the final rule is published, but to allow optional early compliance 30 days after the final rule is published. We believe that because this proposal would permit controls for rear motorcycle brakes to be placed on left motorcycle handlebars, a regulatory restriction would be lifted, and motorcycles that do not presently meet FMVSS No. 123 would be permitted. All other existing motorcycles would also meet the provisions of the proposed

rule. Public comment is sought whether 12 months would be enough lead time for industry to comply with the new requirements and whether to permit optional early compliance with the provisions of an amended FMVSS No. 123.

VII. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866, "Regulatory Planning and Review." The rulemaking action is also not considered to be significant under the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

For the following reasons, we believe that this proposal, if made final, would not have any cost effect on motor vehicle manufacturers. If made final, this rule would have no substantive effect on motorcycles that are already manufactured for the U.S. market. If made final, this rule would facilitate the import of motorcycles that do not meet present requirements for the location of motorcycle rear brake controls. If made final, this rule would have a slight economic benefit to manufacturers of the import motorcycles, which would

not have to design and build separate motorcycles for the U.S. market and for Europe and Japan.

Because the economic impacts of this proposal are so minimal (*i.e.*, the annual effect on the economy is less than \$100 million), no further regulatory evaluation is necessary.

B. Executive Order 13132 (Federalism)

Executive Order 13132 requires us to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, we may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or unless we consult with State and local officials early in the process of developing the proposed regulation. We also may not issue a regulation with Federalism implications and that preempts State law unless we consult with State and local officials early in the process of developing the proposed regulation.

This proposed rule would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The reason is that this proposed rule, if made final, would apply to motorcycle manufacturers, not to the States or local governments. Thus, the requirements of Section 6 of the Executive Order do not apply to this proposed rule.

C. Executive Order 13045 (Economically Significant Rules Affecting Children)

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria,

we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866 and does not involve decisions based on environmental, health or safety risks that disproportionately affect children. This proposed rule, if made final, would make changes affecting only to motorcycle manufacturers. Many States do not permit children under 18 years of age to be licensed to drive motorcycles, or to be passengers on motorcycles.

D. Executive Order 12778 (Civil Justice Reform)

Pursuant to Executive Order 12778, "Civil Justice Reform," we have considered whether this proposed rule would have any retroactive effect. We conclude that it would not have such an effect.

Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

E. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule would not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require

Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

The Agency Administrator considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and certifies that this proposal would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is that this proposal, if made final, would have no effect on small U.S. motorcycle manufacturers. The small manufacturers already manufacture motorcycles that meet the present motorcycle rear brake control requirements and that would meet the proposed amendments to the rear brake control requirements.

F. National Environmental Policy Act

We have analyzed this proposal for the purposes of the National Environmental Policy Act and determined that it would not have any significant impact on the quality of the human environment.

G. Paperwork Reduction Act

NHTSA has determined that, if made final, this proposed rule would not impose any "collection of information" burdens on the public, within the meaning of the Paperwork Reduction Act of 1995 (PRA). This rulemaking action would not impose any filing or recordkeeping requirements on any manufacturer or any other party.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in our regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

After conducting a search of available sources, we have decided to propose (as one of the proposed regulatory alternatives), the rear brake control location specified in ECE Regulation No.

60, Addendum 59, which allows a platform-equipped, motorcycle, *i.e.*, a scooter, to have its rear brake controlled by a lever on the left handlebar if the scooter has an automatic transmission.

I. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if we publish with the final rule an explanation why that alternative was not adopted.

This proposal would not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this proposal is not subject to the requirements of sections 202 and 205 of the UMRA.

J. Data Quality Guidelines

After reviewing the provisions of this NPRM pursuant to OMB's Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies ("Guidelines") issued by the Office of Management and Budget (OMB) (67 FR 8452, Feb. 22, 2002) and issued in final by the Department of Transportation (DOT) on October 1, 2002 (67 FR 61719), NHTSA has determined that if made final, nothing in this rule would result in "information dissemination" to the public, as that term is defined in the Guidelines.

If a determination were made that public distribution of data resulting from this rule constituted information dissemination and was, therefore, subject to the OMB/DOT Guidelines, then the agency would review the information prior to dissemination to ascertain its utility, objectivity, and

integrity (collectively, "quality"). Under the Guidelines, any "affected person" who believed that the information ultimately disseminated by NHTSA was of insufficient quality could file a complaint with the agency. The agency would review the disputed information, make an initial determination of whether it agreed with the complainant and notify the complainant of its initial determination. Once notified of the initial determination, the affected person could file an appeal with the agency.

K. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make this rulemaking easier to understand?

If you have any responses to these questions, please include them in your comments on this NPRM.

L. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may

attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

You may also submit your comments to the docket electronically by logging onto the Dockets Management System Web site at <http://dms.dot.gov>. Click on "Help & Information" or "Help/Info" to obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment

too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted By Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

1. Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>).
2. On that page, click on "search."
3. On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA-1998-1234," you would type "1234." After typing the docket number, click on "search."

4. On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. Although the comments are imaged documents, instead of word processing documents, the "pdf" versions of the documents are word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

How Does the Federal Privacy Act Apply to My Public Comments?

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume

65, Number 70; pages 19477-78) or you may visit <http://dms.dot.gov>.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, it is proposed that the Federal Motor Vehicle Safety Standards (49 CFR part 571), be amended as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.123 of title 49, Code of Federal Regulations, would be amended by revising S5.2.1 and revising table 1 to read as follows:

§ 571.123 Motorcycle controls and displays. * * * * *

S5.2.1. *Control location and operation.* If any item of equipment listed in Table 1, Column 1, is provided, the control for such item shall be located as specified in Column 2, and operable as specified in Column 3. Each control located on a right handlebar shall be operable by the operator's right hand throughout its full range without removal of the operator's right hand from the throttle. Each control located on a left handlebar shall be operable by the operator's left hand throughout its full range without removal of the operator's left hand from the handgrip. If a motorcycle with an automatic clutch is equipped with a supplemental rear brake control, the control shall be located on the right side, shall be operable by the operator's right foot, and shall provide brake actuation identical to that provided by the rear brake control required by Table 1, Item 11, of this Standard. If a motorcycle is equipped with self-proportioning or antilock braking devices utilizing a single control for front and rear brakes, the control shall be located and operable in the same manner as a rear brake control, as specified in Table 1, Item 11, and in this paragraph.

* * * * *

TABLE 1.—MOTORCYCLE CONTROL LOCATION AND OPERATION REQUIREMENTS

Equipment Control— Column 1	Location— Column 2	Operation— Column 3
1 Manual clutch or integrated clutch and gear change.	Left handlebar	Squeeze to disengage clutch.
2 Foot-operated gear change	Left foot control	An upward motion of the operator's toe shifts transmission toward lower numerical gear ratios (commonly referred to as "higher gears"), and a downward motion toward higher numerical gear ratios (commonly referred to as lower gears"). If three or more gears are provided it shall not be possible to shift from the highest gear directly to the lowest gear, or vice versa.
3 Headlamp upper-lower beam control.	Left handlebar	Up for upper beam, down for lower beam. If combined with the headlight on-off switch, means shall be provided to prevent inadvertent actuation of the "off" function.
4 Horn	Left handlebar	Push to activate.
5 Turn signal lamps	Handlebars	
6 Ignition .....	.....	"Off"—counterclockwise from other positions.
7 Manual fuel shutoff control .....	.....	Rotate to operate. "On" and "Off" are separated by 90 degrees of rotation. "Off" and "Reserve" (if provided) are separated by 90 degrees of rotation. Sequence order: "On"—"Off"—"Reserve".
8 Twist-grip throttle	Right handlebar	Self-closing to idle in a clockwise direction after release of hand.
9 Supplemental engine stop	Right handlebar	
10 Front wheel brake	Right handlebar	Squeeze to engage.
11 Rear wheel brake	Right foot control ¹	Depress to engage
	Left handlebar for any motorcycle without a clutch lever.	Squeeze to engage.

¹ See S5.2.1 for requirements for vehicles with a single control for front and rear brakes, and with a supplemental rear brake control.

* * * * *

3. In the alternative to the changes proposed by the preceding amendment, Section 571.123 of title 49, Code of Federal Regulations, would be amended by adding a definition of "scooter" in the correct alphabetical order to S4, by revising S5.2.1, and by revising table 1, to read as follows:

S4. Definitions.

Scooter means a motorcycle having a platform for the operator's feet or having footrests integrated into a platform.

S5.2.1 Control location and operation. If any item of equipment listed in Table

1, Column 1, is provided, the control for such item shall be located as specified in Column 2, and operable as specified in Column 3. Each control located on a right handlebar shall be operable by the operator's right hand throughout its full range without removal of the operator's right hand from the throttle. Each control located on a left handlebar shall be operable by the operator's left hand throughout its full range without removal of the operator's left hand from the handgrip. If a motorcycle with an automatic clutch other than a scooter is equipped with a supplemental rear brake control, the control shall be located on the left handlebar. If a scooter with an automatic clutch is

equipped with a supplemental rear brake control, the control shall be on the right side and operable by the operator's right foot. The supplemental brake control shall provide brake actuation identical to that provided by the required control of Table 1, Item 11, of this Standard. If a motorcycle is equipped with self-proportioning or antilock braking devices utilizing a single control for front and rear brakes, the control shall be located and operable in the same manner as a rear brake control, as specified in Table 1, Item 11, and in this paragraph.

* * * * *

TABLE 1.—MOTORCYCLE CONTROL LOCATION AND OPERATION REQUIREMENTS

Equipment Control— Column 1	Location— Column 2	Operation— Column 3
1 Manual clutch or integrated clutch and gear change.	Left handlebar	Squeeze to disengage clutch.
2 Foot-operated gear change	Left foot control	An upward motion of the operator's toe shifts transmission toward lower numerical gear ratios (commonly referred to as "higher gears"), and a downward motion toward higher numerical gear ratios (commonly referred to as lower gears"). If three or more gears are provided, it shall not be possible to shift from the highest gear directly to the lowest, or vice versa.
3 Headlamp upper-lower beam control.	Left handlebar	Up for upper beam, down for lower beam. If combined with the headlight on-off switch, means shall be provided to prevent inadvertent actuation of the "off" function.
4 Horn	Left handlebar	Push to activate.
5 Turn signal lamps	Handlebars	
6 Ignition .....	.....	"Off"—counterclockwise from other positions.

TABLE 1.—MOTORCYCLE CONTROL LOCATION AND OPERATION REQUIREMENTS—Continued

Equipment Control— Column 1	Location— Column 2	Operation— Column 3
7 Manual fuel shutoff control .....	.....	Rotate to operate. “On” and “Off” are separated by 90 degrees of rotation. “Off” and “Reserve” (if provided) are separated by 90 degrees of rotation. Sequence order: “On”—“Off”—“Reserve”. Self-closing to idle in a clockwise direction after release of hand.
8 Twist-grip throttle	Right handlebar	
9 Supplemental engine stop	Right handlebar	
10 Front wheel brake	Right handlebar	Squeeze to engage.
11 Rear wheel brakes	Right foot control ¹ Left handlebar for a motor-driven cycle and for a scooter with an automatic clutch.	Depress to engage. Squeeze to engage.

¹ See S5.2.1 for requirements for vehicles with a single control for front and rear brakes, and with a supplemental rear brake control.

Issued on: November 13, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–28943 Filed 11–20–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 110303B]

Groundfish Fisheries of the Bering Sea and Aleutian Islands Area and the Gulf of Alaska, King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands, Scallop and Salmon Fisheries off the Coast of Alaska

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

ACTION: Notification of a call for proposals for Habitat Areas of Particular Concern (HAPCs) and associated fishery management measures.

SUMMARY: NMFS and the North Pacific Fishery Management Council are soliciting proposals for specific HAPCs that could be identified and managed within Essential Fish Habitat (EFH) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Council has identified two priority habitat types for consideration during this call for proposals, and the Council plans to solicit additional proposals every three years.

DATES: Proposals must be submitted by January 10, 2004.

ADDRESSES: Proposals should be submitted to the North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT:

Cathy Coon, (907) 271–2809.

SUPPLEMENTARY INFORMATION: The regulatory guidelines for implementing the EFH provisions of the Magnuson-Stevens Act encourage Fishery Management Councils to identify specific types or areas of habitat within EFH as HAPCs based on one or more of the following considerations: (1) The importance of the ecological function provided by the habitat; (2) The extent to which the habitat is sensitive to human-induced environmental degradation; (3) Whether, and to what extent, development activities are, or will be, stressing the habitat type; and (4) The rarity of the habitat type (50 CFR 600.815(a)(8)). HAPC designations provide an opportunity for Councils to highlight especially valuable and/or vulnerable areas within EFH that warrant priority consideration for conservation and management.

NMFS and the Council are developing an environmental impact statement (EIS) for the EFH components of Council fishery management plans (FMPs). As discussed in a previous notification published in the **Federal Register** (August 20, 2003, 68 FR 50120), the EIS will evaluate alternative approaches for identifying HAPCs, and NMFS and the Council will consider specific HAPC designations in separate National Environmental Policy Act analyses.

The Council has identified the following two HAPC priority areas for 2003:

1. Seamounts in the Exclusive Economic Zone off Alaska, named on NOAA nautical charts, that provide important habitat for managed species.
2. Largely undisturbed, high relief, long lived hard coral beds, with particular attention in the Aleutian Islands, which provide habitat for life stages of rockfish or other important managed species. Based upon best available scientific information, nominated coral sites must have likely

or documented presence of Council managed rockfish species, must be largely undisturbed, and must occur outside core fishing areas.

NMFS and the Council are soliciting proposals for specific HAPCs. Proposals will be ranked according to how many of the four HAPC considerations they meet, with the highest ranking given to proposals that meet all four. The Council determined that successful proposals must meet at least two of the four HAPC considerations, and that rarity of the habitat type will be a mandatory criterion of all HAPC proposals. Proposals will be screened by Council staff and reviewed by Council Plan Teams, and then the Council will decide which proposals warrant detailed analysis and public comment. NMFS will promulgate any resulting regulations, supported by appropriate analyses, no later than August 13, 2006. The Council plans to solicit additional HAPC proposals every three years.

Proposals should include the following information:

1. Name of proposer, address, and affiliation;
2. Title of proposal and a single, brief paragraph concisely describing the proposed action;
3. Identification of the habitat and FMP species the HAPC proposal is intended to protect;
4. Statement of purpose and need;
5. Description of whether and how the proposed HAPC addresses the four considerations set out in the EFH regulations;
6. Specific objectives for the proposal, including proposed management measures and their specific objectives, if appropriate;
7. Proposed solutions to achieve these objectives (how might the problem be solved);
8. Methods of measuring progress towards those objectives;
9. Expected benefits to the FMP species of the proposed HAPC, and supporting information or data;

10. Identification of the fisheries, sectors, stakeholders and communities to be affected by the establishment of the proposed HAPC and any available information on socioeconomic costs, including catch data from the proposed area over the last five years;

11. Clear geographic delineation for proposed HAPC (written latitude and

longitude reference points and delineation on an appropriately scaled NOAA chart); and

12. Best available information and sources of such information to support the objectives for the proposed HAPC (citations for common information or copies of uncommon information).

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

Dated: November 17, 2003.

Bruce C. Morehead,

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

[FR Doc. 03-29173 Filed 11-20-03; 8:45 am]

BILLING CODE 3510-22-S

Notices

Federal Register

Vol. 68, No. 225

Friday, November 21, 2003

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

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of the Advisory Committee on Biotechnology and 21st Century Agriculture; Meeting

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. II, the United States Department of Agriculture announces a meeting of the Advisory Committee on Biotechnology and 21st Century Agriculture (AC21).

DATES: December 4–5, 2003, 8:30 a.m. to 5 p.m. both days. Written request to make oral presentations at the meeting must be received by the contact person identified herein at least three business days before the meeting.

ADDRESSES: Vista C Room at the Wyndham Washington Hotel, 1400 M Street, NW., Washington, DC 20005. Requests to make oral presentations at the meeting may be sent to the contact person at USDA, Office of the Deputy Secretary, 202 B Jamie L. Whitten Federal Building, 12th and Independence Avenues, SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Michael Schechtman, Designated Federal Official, Office of the Deputy Secretary, USDA, 202B Jamie L. Whitten Federal Building, 12th and Independence Avenue, SW., Washington, DC 20250; Telephone (202) 720-3817; Fax (202) 690-4265; E-mail mschechtman@ars.usda.gov.

SUPPLEMENTARY INFORMATION: The third meeting of the AC21 has been scheduled for December 4–5, 2003. The AC21 consists of 18 members representing the biotechnology industry, the seed industry, international plant genetics research, farmers, food manufacturers,

commodity processors and shippers, environmental and consumer groups, along with academic researchers including a bioethicist. In addition, representatives from the Departments of Commerce, Health and Human Services, and State, and the Environmental Protection Agency, the Council on Environmental Quality, and the Office of the United States Trade Representative serve as “ex officio” members. The Committee meeting will be held from 8:30 a.m. to 5 p.m. on each day. Items on the AC21’s agenda include: Continuing work to develop a report examining the impacts of agricultural biotechnology on American agriculture and USDA over the next 5 to 10 years in two sub-areas, namely (1) discussion of issues and concerns related to impacts of plant biotechnology products that may be developed over the next 5 to 10 years, as identified by AC21 work groups, and (2) preliminary presentations and introductory discussions related to animal biotechnology products that may be developed over the same time frame; and preliminary presentations and introductory discussions on the issue of the proliferation of traceability and mandatory labeling regimes for biotechnology-derived products in other countries, the implications of those regimes, and what industry is doing to attempt to address those requirements for products shipped to those countries.

Background information regarding the work of the AC21 will be available on the USDA Web site at <http://www.usda.gov/agencies/biotech/ac21.html>. On December 4, 2003, if time permits, reasonable provision will be made for oral presentations of no more than five minutes each in duration.

The meeting will be open to the public, but space is limited. If you would like to attend the meetings, you must register by contacting Ms. Dianne Harmon at (202) 720-4074, by fax at (202) 720-3191 or by E-mail at dharmon@ars.usda.gov at least 5 days prior to the meeting. Please provide your name, title, business affiliation, address, telephone, and fax number when you register. If you require a sign language interpreter or other special accommodation due to disability, please

indicate those needs at the time of registration.

Edward B. Knipling,

Acting Administrator, ARS.

[FR Doc. 03-29230 Filed 11-20-03; 8:45 am]

BILLING CODE 3410-03-P

DEPARTMENT OF AGRICULTURE

Forest Service

Gray Mountain Coal Lease Proposal

AGENCY: Forest Service, USDA; Cooperating Agencies: Bureau of Land Management, (BLM) and the Office of Surface Mining (OSM).

ACTION: Public hearing on the Gray Mountain Coal Lease Proposal.

SUMMARY: As the lead federal agency, in cooperation with the BLM, the Daniel Boone National Forest hereby announces that the BLM will conduct a public hearing to accept comments on the Gray Mountain Coal Lease Land Use Analysis and Draft Environmental Impact Statement (LUA and DEIS). This hearing is being held in accordance with regulations found at 43 CFR 3425.4. This hearing is being conducted to receive public input on a proposal to offer federal coal in a competitive lease sale as addressed in the LUA and DEIS. The 1,210.44 acres proposed for leasing are located within the Daniel Boone National Forest in Leslie County, Kentucky.

DATE COMMENTS ARE DUE: The public hearing is being held on November 24, 2003 at 2 p.m. The comment period closes on November 24, 2003.

FOR FURTHER INFORMATION CONTACT: For information related to this hearing, contact Sid Vogelpohl, Assistant Field Manager, Mineral Resources, BLM, Eastern States, Jackson Field Office. He can be reached at (601) 977-5402, or by mail at 411 Briarwood Dr., Suite 404, Jackson, MS 39206.

For information related to the LUA and DEIS, please contact Corey Miller, the interdisciplinary team leader for this proposed action, at the Daniel Boone National Forest, 1700 Bypass Road, Winchester, KY 40391, or by telephone at (859) 745-3149.

SUPPLEMENTARY INFORMATION: This public hearing is scheduled for November 24, 2003. The hearing will be held at 2 p.m. at the Leslie County

Extension Services Office, 22045 Main Street, in Hyden, Kentucky.

The U.S. Forest Service is the lead agency preparing the LUA and DEIS to analyze the environmental impacts of leasing three federal coal tracts. The 1,210.44 acres proposed for leasing lie in three separate tracts within lands administered by the Redbird Ranger District of the Daniel Boone National Forest. The three USFS tracts are located on and around Gray Mountain, between the Beech Fork and Greasy Creek drainages in southern Leslie County. The lease applicant proposes to mine the federal coal by underground methods from an existing mining operation.

The Notice of Intent to prepare this LUA and DEIS was announced in the **Federal Register** on February 13, 2003 (Volume 68, Number 30, pages 7338–7340). By **Federal Register** Notice of September 18, 2003 (Volume 68, Number 181, pages 54706–54707), process changes were announced along with the name of the project being changed from the “Beech Fork Coal Lease Proposal” to “Gray Mountain Coal Lease Proposal”.

The U.S. Forest Service provided copies of the LUA and DEIS to the public and agencies on about September 19, 2003. The U.S. Environmental Protection Agency announced the availability of the LUA and DEIS in the **Federal Register** dated October 10, 2003 (Volume 68, Number 197, page 58668). This hearing provides another opportunity for the public to comment on the project.

Dated: November 17, 2003.

Gary R. Coleman,

Acting Forest Supervisor, Daniel Boone National Forest.

[FR Doc. 03–29100 Filed 11–20–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Shasta County Resource Advisory Committee (RAC)

AGENCY: USDA, Forest Service.

ACTION: Notice of Meeting.

SUMMARY: The Shasta County Resource Advisory Committee (RAC) will meet on December 3, 2003, in Redding, California. The purpose of the meeting will be to review pending projects to nominate for approval consideration.

DATES: The meeting will be held on December 3, 2003, from 8 a.m. to noon.

ADDRESSES: The meeting will be held at Northern California Service Center, 6101 Airport Road.

FOR FURTHER INFORMATION CONTACT: Kevin McIver, coordinator, USDA Forest Service, (530) 226–2500. E-mail: kmciver@fs.fed.us.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Discussion is limited to Forest Service staff and committee members. However, time may be provided for public input, giving individuals the opportunity to address the committee.

Dated: November 13, 2003.

Thomas Contreras,

Forest Supervisor.

[FR Doc. 03–28972 Filed 11–20–03; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: December 21, 2003.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On August 8, 2003, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (68 FR 47292) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service is added to the Procurement List:

Service

Service Type/Location: Janitorial/Grounds Maintenance; INS Florence Processing Center, Florence, AZ.

NPA: J.P. Industries, Inc., Tucson, AZ.

Contract Activity: DOJ/INS–CA, INS Western Regional Office, Laguna Niguel, CA.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 03–29160 Filed 11–20–03; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Certain Pasta from Italy: Extension of Final Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: November 21, 2003.

FOR FURTHER INFORMATION CONTACT: Mark Young at (202) 482–6397, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue (1) the preliminary results of a review within 245 days after the last day of the month in which occurs the anniversary of the date of publication of an order or finding for which a review is requested,

and (2) the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days and the final results to a maximum of 180 days (or 300 days if the Department does not extend the time limit for the preliminary results) from the date of the publication of the preliminary results. *See also* 19 CFR 351.213(h)(2).

Background

On August 19, 2002, the Department published a notice of initiation of the administrative review of the antidumping duty order on certain pasta from Italy, covering the period July 1, 2001 to June 30, 2002 (67 FR 55000). On March 27, 2003, the Department fully extended the preliminary results of the aforementioned review by 120 days (68 FR 14945). On August 7, 2003, the Department published the preliminary results of its review (68 FR 47020). The final results of this review are currently due no later than December 5, 2003.

Extension of Final Results of Reviews

We determine that it is not practicable to complete the final results of this review within the original time limit, because the Department needs additional time to fully consider certain arguments raised by parties in their case briefs. *See* Decision Memorandum from Melissa Skinner to Holly Kuga, dated November 7, 2003, which is on file in the Central Records Unit, B-099 of the main Commerce Building. Therefore, we are extending the deadline for the final results of the above-referenced review until February 3, 2004.

This extension is in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: November 14, 2003.

Holly Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 03-29171 Filed 11-20-03; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-808]

Stainless Steel Wire Rods From India: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review

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

ACTION: Notice of extension of time limit for the preliminary results of antidumping duty administrative review.

EFFECTIVE DATE: November 21, 2003.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the preliminary results of the review of stainless steel wire rods from India. This review covers the period December 1, 2001 through November 30, 2002.

FOR FURTHER INFORMATION CONTACT: Kit Rudd, Eugene Degnan, or Jonathan Herzog, AD/CVD Enforcement, Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482-1385, (202) 482-0414 and (202) 482-4271 respectively.

Background

On January 22, 2003, the Department published a notice of initiation of an antidumping duty administrative review of stainless steel wire rods ("SSWR") from India covering the period December 1, 2001 through November 30, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 68 FR 3009 (January 22, 2003). On August 5, 2003, the Department published a notice extending the time limit for the preliminary results by 60 days to December 1, 2003. *See Stainless Steel Wire Rods from India: Notice of Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 46164 (August 5, 2003).

Extension of Time Limit of Preliminary Results

Section 751(a)(3)(A) of the Act states that if it is not practicable to complete the review within the time specified, the administering authority may extend the 245-day period to issue its preliminary results by up to 120 days. Completion of the preliminary results of this review

within the 245-day period is not practicable for the following reasons:

- The review involves four companies, three of which include sales and cost investigations requiring the Department to gather and analyze a significant amount of information pertaining to each company's sales practices, manufacturing costs and corporate relationships.
- The Department delayed its planned verification of the Viraj Group Limited due to an Indian holiday.

Therefore, in accordance with section 751(a)(3)(A) of the Act, we are extending the time period for issuing the preliminary results of review by 11 days until December 12, 2003. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: November 17, 2003.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03-29163 Filed 11-20-03; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

United States Travel and Tourism Promotion Advisory Board

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of open meeting.

Date: December 8, 2003.

Time: 11 a.m.-3:30 p.m.

Place: Hyatt Regency Denver, Mt. Elbert Room, 1750 Welton Street, Denver, CO 80202.

SUMMARY: The United States Travel and Tourism Promotion Advisory Board ("Board") will hold a Board meeting on December 8, 2003 at the Hyatt Regency Denver.

The Board will discuss the design, development and subsequent implementation of an international advertising and promotional campaign, which will seek to encourage individuals from select countries to travel to the United States. The meeting will be open to the public. Time will be permitted for public comment. To sign up for public comment, please contact Julie Heizer by 5 p.m. EST, on Friday, December 5, 2003. She may be contacted at U.S. Department of Commerce, 1401 Constitution Avenue, NW., Room 7025, Washington, DC 20230; via fax at (202) 482-2887; or, via e-mail at promotion@tinet.ita.doc.gov.

Written comments concerning Board affairs are welcome anytime before or after the meeting. Written comments should be directed to Julie Heizer. Minutes will be available within 30 days of this meeting.

The Board is mandated by Public Law 108-7, Section 210. As directed by Public Law 108-7, Section 210, the Secretary of Commerce shall design, develop and implement an international advertising and promotional campaign, which seeks to encourage individuals to travel to the United States. The Board shall recommend to the Secretary of Commerce the appropriate coordinated activities for funding. This campaign shall be a multi-media effort that seeks to leverage the Federal dollars with contributions of cash and in-kind products unique to the travel and tourism industry. The Board was chartered in August of 2003 and will expire on August 8, 2005.

For further information, phone Julie Heizer, Office of Travel and Tourism Industries (OTTI), International Trade Administration, U.S. Department of Commerce at (202) 482-4904. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to OTTI.

Dated: November 18, 2003.

Cary G. Justice,

Special Assistant, Office of Service Industries, Tourism, and Finance.

[FR Doc. 03-29172 Filed 11-20-03; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Meeting of the Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Information Security and Privacy Advisory Board (ISPAB) will meet Tuesday, December 16, 2003, from 8:30 a.m. until 5 p.m., Wednesday, December 17, 2003, from 8:30 a.m. until 5 p.m. All sessions will be open to the public. The Advisory Board was established by the Computer Security Act of 1987 (Pub. L. 100-235) and amended by the Federal Information Security Management Act of 2002 (Pub. L. 107-347) to advise the

Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to federal computer systems. Details regarding the Board's activities are available at <http://csrc.nist.gov/ispab/>.

DATES: The meeting will be held on December 16, 2003, from 8:30 a.m. until 5 p.m., December 17, 2003, from 8:30 a.m. until 5 p.m.

ADDRESSES: The meeting will take place at the North Washington, DC North/Gaithersburg Hilton Hotel, 620 Perry Parkway, Gaithersburg, Maryland.

Agenda:

- Welcome and Overview
- Board Discussion/Planning for March 2004 Agencies Customer Service Management Work Session
- Overview of Program Activities of the NIST Information Technology Laboratory's Computer Security Division
- Update by OMB on Privacy and Security Issues
- Briefing by Department of Homeland Security Office Privacy Officer Nuala Connor-Kelly
- Agenda Development for March 2004 ISPAB Meeting
- Wrap-Up

Note that agenda items may change without notice because of possible unexpected schedule conflicts of presenters.

Public Participation: The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the ISPAB Secretariat, Information Technology Laboratory, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899-8930. It would be appreciated if 25 copies of written material were submitted for distribution to the Board and attendees no later than December 9, 2003. Approximately 15 seats will be available for the public and media.

FOR FURTHER INFORMATION CONTACT: Ms. Joan Hash, Board Secretariat, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899-8930, telephone: (301) 975-3357.

Dated: November 13, 2003.

Arden L. Bement, Jr.,

Director.

[FR Doc. 03-29065 Filed 11-20-03; 8:45 am]

BILLING CODE 3510-CN-P

THE COMMISSION OF FINE ARTS

2004 National Capital Arts and Cultural Affairs Program

Notice is hereby given that Public Law 99-190, as amended, authorizing the National Capital Arts and Cultural Affairs Program, has been funded for 2004 in the amount of \$7,000,000.00. All request for information and applications for grants should be received by 31 December 2003 and addressed to: Frederick J. Lindstrom, Assistant Secretary/NCACA Program Administrator, Commission of Fine Arts, National Building Museum, Suite 312, 401 F Street, NW., Washington, DC 20001-2728, Phone: 202-504-2200.

Deadline for receipt of grant applications is March 1, 2004.

This program provides grants for general operating support of organizations whose primary purpose is performing, exhibiting, and/or presenting the arts. To be eligible for a grant, organizations must be located in the District of Columbia, must be non-profit, non-academic institutions of demonstrated national repute, and must have annual incomes, exclusive of federal funds, in excess of one million dollars for each of the past three years. Organizations seeking grants must provide a Dun and Bradstreet (D&S) Data Universal Numbering System (DUNNS) number when applying.

Charles H. Atheton,

Secretary.

[FR Doc. 03-29099 Filed 11-20-03; 8:45 am]

BILLING CODE 6330-01-M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Renewal of Two Currently Approved Information Collections; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal

agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning the proposed revision of two forms:

- *Corporation for National Service Enrollment Form* (OMB #3045-0006), and

- *Corporation for National Service End of Term/Exit Form* (OMB # 3045-0015).

Copies of the forms can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by January 20, 2004.

ADDRESSES: Send comments to the Corporation for National and Community Service, National Service Trust, Attn: Mr. Bruce Kellogg, 8th Floor, 1201 New York Avenue, NW., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Bruce Kellogg, (202) 606-5000, ext. 256.

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

I. Background

The Corporation supports programs that provide opportunities for individuals who want to become involved in national service. The service

opportunities cover a wide range of activities over varying periods of time. Upon successfully completing an agreed-upon term of service in an AmeriCorps program, an AmeriCorps participant receives an "education award". This education award can be used to make a payment towards a qualified student loan or pay for educational expenses at qualified post-secondary institutions and approved school-to-work opportunities programs. This award is an amount of money set aside in the AmeriCorps member's name in the National Service Trust Fund. Members have seven years in which to draw against any unused balance.

The National Service Trust is the office within the Corporation that administers the education award program. This involves:

- Tracking the service for all AmeriCorps members;
- Ensuring that the requirements of the Corporation's enabling legislation are met, vis-a-vis the education award;
- Processing school and loan payments that the members authorize; and
- Processing payments for the interest that accrues on certain qualified student loans during the member's service period.

II. Current Action

The Corporation has been using several versions of the two forms contained in this Notice since the AmeriCorps program began in 1994. The Corporation plans to renew both forms and requested an extension of the November 30, 2003, expiration date from the Office of Management and Budget (OMB) for both forms in order to satisfy the public comment period. OMB granted a 90 day extension and assigned a new expiration date of February 29, 2004.

The Corporation's *Enrollment Form* serves two purposes essential to the functioning of the AmeriCorps program. It is the means by which programs certify that an individual is eligible to serve in an AmeriCorps program and the date service has begun. Second, it provides the Corporation, Grantees, program managers, and Congress with demographic data on AmeriCorps members.

The Enrollment Form is the beginning-of-service counterpart to the Corporation's *End of Term/Exit Form*, which concludes the tracking of members at the end of their term of service.

Submission of the *End of Term/Exit Form* provides legal certification for the disbursement of an education award to an AmeriCorps member. It is the

document by which an authorized program official at an AmeriCorps program site indicates whether an AmeriCorps member is eligible for an education award.

Several versions of both forms have been used since the AmeriCorps program began in 1994.

In 1999, the Corporation began using an electronic system to both enroll and exit AmeriCorps members. Local projects can enter into a database information about their members' enrollment and completion of service. This data is transferred to the Trust periodically where it becomes the official record.

A. Enrollment Form—(OMB #3045-0006)

Currently, AmeriCorps members use a form entitled *Corporation for National Service Enrollment Form* to enroll national service participants in the AmeriCorps program. The form requests program-related as well as demographic information. The program information includes the participant's start date, the code number of the program, the expected completion date, and whether the term of service is full or part time. This is the Corporation's sole source of data for individual members. The demographic information includes background information on the AmeriCorps member (including gender, marital status, education level, and reasons for joining).

The program information is used to:

- Make liability projections for the Trust Fund;
- Verify national service participation when requested by a lender who holds an AmeriCorps member's student loan (members are eligible to have the repayment of certain student loans postponed if they are participating in national service);
- Plan and monitor programs (review recruiting efforts, identify programs with excessive early termination rates, establish and reconcile program's budgets)

The demographic information is used for recruiting purposes and to provide the Corporation, program managers, and the Congress with demographic data on AmeriCorps members.

In requesting permission for renewal of this form, the Corporation does not propose making any changes to the version currently in use.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Corporation for National Service Enrollment Form.

OMB Number: 3045-0006.

Agency Number: None.

Affected Public: Individuals about to participate in an AmeriCorps program.

Total Respondents: 10,000 annually.

Frequency: Once per service period (average of once per year).

Average Time Per Response: Total of 7 minutes (4 minutes for the AmeriCorps members, and 3 minutes for the program staff).

Estimated Total Burden Hours: 1,166 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

B. End of Term/Exit Form—(3045-0015)

The Corporation's End of Term/Exit form is the means by which AmeriCorps programs certify that a member has, or has not, successfully satisfied conditions which must be met in order to receive an education award. When an AmeriCorps member successfully completes a term of national service, a designated program official certifies that the service was completed and the individual is eligible for an education award. The End of Term/Exit form is the document upon which this certification is recorded.

Additional information requested on the form includes the member's service completion date, the current address where the education award documentation should be mailed, and two questions regarding the member's desire for post service information.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Corporation for National Service End of Term/Exit Form.

OMB Number: None.

Agency Number: None.

Affected Public: AmeriCorps members who have ended their term of national service.

Total Respondents: 10,000 annually.

Frequency: Once per term of service (average of once per year).

Average Time Per Response: 7 minutes, total (4 minutes for the AmeriCorps members to complete the form and, 3 minutes for the program staff).

Estimated Total Burden Hours: 1,166 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: November 18, 2003.

Ruben L. Wiley,

Director, National Trust.

[FR Doc. 03-29155 Filed 11-20-03; 8:45 am]

BILLING CODE 6050--\$-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Technology and Privacy Advisory Committee (TAPAC)

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Technology and Privacy Advisory Committee was held November 20-21, 2003. The purpose of the meeting was for presentations of interest and discussion concerning the legal and policy considerations implicated by the application of advanced information technologies to counter-terrorism and counter-intelligence missions.

Additional information, including prepared testimony of witnesses, will be posted on the Committee's Web site as it becomes available.

This notice has been posted on the Committee's Web site for three weeks, but an administrative error resulted in it being published in the **Federal Register** less than 15 days before the meeting date.

DATES: Thursday, November 20, 9 a.m.-4 p.m. on Friday, November 21, 8 a.m.-12 p.m.

ADDRESSES: Dirksen Senate Office Building Room 138 (SD-138), 1st and C Streets, NE; adjoining the Hart Senate Office Building.

FOR FURTHER INFORMATION CONTACT: Please check the Web site for location and/or agenda changes at <http://www.sainc.com/tapac>, or contact Ms. Lisa Davis, Executive Director, Technology and Privacy Advisory Committee, The Pentagon, Room 3E1045, Washington, DC 20301-3330, telephone 703-695-0903.

Dated: November 14, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison

Officer, Department of Defense.

[FR Doc. 03-29062 Filed 11-20-03; 8:45 am]

BILLING CODE 5001-06-M

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will

hold an informal conference followed by a public hearing on Wednesday, December 3. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

The conference among the commissioners and staff will begin at 9:30 a.m. Topics of discussion will include: An update on development of the Water Resources Plan for the Delaware River Basin; a report on activities related to the Tri-State Planning Initiative; an update on Water Quality Advisory Committee (WQAC) activities relating to revision of the Commission's water quality standards and the schedule for their adoption, and a revised schedule for adoption of new toxics criteria; a discussion of unresolved issues raised by the WQAC relating to (1) interim protection for waters under study by the Commission for purposes of determining their eligibility to be designated as Special Protection Waters, and (2) basin-wide water quality criteria and their points of application; an update on activities of the Monitoring Advisory Committee; an update on the issuance of the TMDLs for PCBs in the Delaware Estuary, including a proposed resolution to require additional point source monitoring; and an update on activities of the TMDL Implementation Advisory Committee (IAC).

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed below:

1. *Baldwin Hardware Corporation D-87-32 RENEWAL* 2. A ground water withdrawal renewal project to continue withdrawal of up to 15.13 mg/30 days to supply the applicant's manufacturing facility and ongoing ground water decontamination program from existing Wells Nos. PS-1, PS-2, PS-3, PW-4, and PW-5 in the Schuylkill River watershed. No increase of water withdrawal is proposed. Treated effluent will continue to be discharged to the Schuylkill River. The project is located in City of Reading, Berks County, Pennsylvania.

2. *Township of Pemberton D-92-56 CP RENEWAL* A ground water withdrawal renewal project to continue withdrawal of 38.75 mg/30 days to supply the applicant's public water distribution system from existing Wells Nos. 4, 6, 7, 8A, and 11 in the Rancocas Creek Watershed. The project is located in Pemberton Township, Burlington County, New Jersey.

3. *Borough of Hopatcong D-92-85 CP RENEWAL*. A ground water withdrawal renewal project to continue withdrawal of 18.91 mg/30 days to supply the applicant's water distribution system from existing Wells Nos. 1, 2, 3, 3A, 4, 5, 8, 12, Squire, River Styx, and Mariners in the Musconetcong River Watershed. The project is located in Hopatcong Borough, Sussex County, New Jersey.

4. *Sparta Township Water Utility D-98-1 CP*. A ground water withdrawal project to supply up to 46.11 mg/30 days of water to the applicant's distribution system from new Wells Buttonwood 1 and 2, Sussex Mills 1 and 2, and Germany Flats A and B, and also from ten existing wells, all located within the Delaware River Basin; to approve the exportation of up to 22.13 mg/30 days of water from the Germany Flats Wells A and B from the Delaware River Basin; and to increase the existing withdrawal limit of 18.84 mg/30 days from all wells in the Delaware River Basin to 46.11 mg/30 days. The project is located in Sparta Township, Sussex County, New Jersey.

5. *Nestlé Waters North America, Inc. D-98-27 RENEWAL*. A spring water renewal project to continue withdrawal of 9.0 mg/30 days to supply the applicant's bottled water operations from Hoffman Springs Nos. 1, 2, and 3 in the Ontelaunee Creek Watershed. The project is located in Lynn Township, Lehigh County, Pennsylvania.

6. *Consumers New Jersey Water Company D-2000-36 CP*. A ground water withdrawal project to supply up to 60.3 mg/30 days of water to the applicant's public water distribution system from new Well No. 14 in the Lower Potomac-Raritan-Magothy Aquifer, and to increase the existing withdrawal limit from all wells from 140 mg/30 days to 200.3 mg/30 days. The project is located in Hamilton Township, Mercer County, New Jersey.

In addition to the public hearing items, the Commission will address the following at its 1:30 p.m. business meeting: Minutes of the October 15, 2003 business meeting; announcements; a report on Basin hydrologic conditions; a report by the executive director; a report by the Commission's general counsel; a resolution extending Docket D-69-210 CP (Final) (Revision 11), the "Exelon Mine Water Demonstration Project," for one year to continue the mine pool withdrawal and stream flow augmentation demonstration project and to modify project operations; a resolution to extend the credit granted PPL on November 25, 2002 to satisfy its consumptive use compensation requirement; a resolution to require

additional point source monitoring for PCBs to meet data needs for the Stage 2 TMDLs; and a resolution extending the term of the Watershed Advisory Council.

Draft dockets scheduled for public hearing on December 3, 2003 are posted on the Commission's Web site, <http://www.drbc.net>, where they can be accessed through the Notice of Commission Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Please contact Robert Tudor at 609-883-9500 ext. 208 with any docket-related questions.

Persons wishing to testify at this hearing are requested to register in advance with the Commission secretary at 609-883-9500 ext. 203. Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the hearing should contact the Commission secretary directly at 609-883-9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission may accommodate your needs.

Dated: November 17, 2003.

Pamela M. Bush, Esquire,

Commission Secretary.

[FR Doc. 03-29096 Filed 11-20-03; 8:45 am]

BILLING CODE 6360-01-P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 20, 2004.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader,

Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: November 17, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Reinstatement.

Title: Clearance Package for Federal Student Aid (FSA) Customer Satisfaction Surveys Master Plan.

Frequency: As needed.

Affected Public: Individuals or household; Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 12,000.

Burden Hours: 2,900.

Abstract: In order to redefine the planning and decision-making processes to improve the quality of FSA products and services.

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 2370. 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 Sheila Carey at her e-mail address *Sheila.Carey@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. 03-29079 Filed 11-20-03; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04-50-000]

Alliance Pipeline L.P.; Notice of Proposed Changes in FERC Gas

November 13, 2003.

Take notice that on November 5, 2003, Alliance Pipeline L.P. (Alliance) tendered for filing, as part of Alliance's FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 2, proposed to be effective November 2, 2003.

Alliance states that the listed tariff sheet is being filed to add a reference in the Table of Contents to newly established Section 41 of the General Terms and Conditions of Alliance's FERC Gas Tariff, which addresses the use of offsystem capacity acquired by Alliance, as well as waiver of the shipper-must-hold-title rule.

Alliance states that copies of its filing have been mailed to all customers, state commissions, and other interested parties.

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 385.214 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 "eLibrary". 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.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00331 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-301-094]

ANR Pipeline Company; Notice of Compliance Filing

November 13, 2003.

Take notice that on November 4, 2003, ANR Pipeline Company, (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute Fifteenth Revised Sheet No. 190, to become effective November 1, 2003.

ANR states that the tariff sheet is being filed in compliance with the Commission's order issued October 23, 2003, in the referenced proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings.

See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00322 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-301-092]

ANR Pipeline Company; Notice of Negotiated Rate Filing

November 13, 2003.

Take notice that on November 3, 2003, ANR Pipeline Company (ANR) tendered for filing and approval three amendments to negotiated rate service agreements between ANR and Wisconsin Public Service Corporation (WPS).

ANR requests that the Commission accept and approve the subject negotiated rate agreement amendments to be effective November 1, 2003.

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 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 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 "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00334 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket No. RP99-301-093]

**ANR Pipeline Company; Notice of
Negotiated Rate Filing**

November 13, 2003.

Take notice that, on November 3, 2003, ANR Pipeline Company (ANR) tendered for filing and approval an amendment to a negotiated rate service agreement between ANR and NG Energy Trading, L.L.C.

ANR requests that the Commission accept and approve the subject negotiated rate agreement amendments to be effective November 1, 2003.

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 385.214 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 "eLibrary". 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.

Magalie R. Salas,*Secretary.*

[FR Doc. E3-00335 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket No. RP03-584-001]

**ANR Pipeline Company; Notice of
Tariff Filing**

November 14, 2003.

Take notice that on November 7, 2003, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to become effective September 1, 2003:

Sub Fifty-Seventh Revised Sheet No. 8
Sub Fifty-Seventh Revised Sheet No. 9
Sub Fifty-Sixth Revised Sheet No. 13

ANR states that the above-referenced tariff sheets are being filed to correct the Above-Market Dakota Costs assigned to ANR's ITS Rate Schedule which were inadvertently allocated over a three-month period instead of the twelve-month period requested in its filing of August 29, 2003.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Magalie R. Salas,*Secretary.*

[FR Doc. E3-00349 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket No. RP04-52-000]

**Black Marlin Pipeline Company; Notice
of Tariff Filing**

November 13, 2003.

Take notice that on November 7, 2003, Black Marlin Pipeline Company (Black Marlin) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to be effective December 7, 2003:

Third Revised Sheet No. 102
Fourth Revised Sheet No. 127
Fifth Revised Sheet No. 220
Second Revised Sheet No. 300
First Revised Sheet No. 301
First Revised Sheet No. 302
First Revised Sheet No. 303
Third Revised Sheet No. 305
First Revised Sheet No. 306
Second Revised Sheet No. 307
First Revised Sheet No. 308
First Revised Sheet No. 309
First Revised Sheet No. 310
Third Revised Sheet No. 312
First Revised Sheet No. 313

Black Marlin states that this filing is made in part for administrative purposes and in part as a housekeeping matter to update contact names and addresses in Rate Schedules and Terms and Conditions of Black Marlin's tariff and make various revisions to the Transportation Service Agreements for the FTS and ITS Rate Schedules.

Black Marlin further states that copies of the filing have been mailed to each of its customers, interested State Commissions and other interested persons.

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 § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 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 "eLibrary". 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.

Magalie R. Salas,

Secretary.

[FR Doc. E3-00333 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00-305-012]

CenterPoint Energy—Mississippi River Transmission Corporation; Notice of Negotiated Rate Filing

November 13, 2003.

Take notice that on November 5, 2003, CenterPoint Energy—Mississippi River Transmission Corporation (MRT) tendered for filing and approval a negotiated rate agreement between MRT and CenterPoint Energy Gas Marketing Company. MRT requests that the Commission accept and approve the transaction to be effective November 1, 2003.

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 385.214 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 "eLibrary". 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.

Magalie R. Salas,

Secretary.

[FR Doc. E3-00323 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03-302-002]

Cheyenne Plains Gas Pipeline Company; Notice of Compliance Filing

November 14, 2003.

Take notice that on November 6, 2003, Cheyenne Plains Gas Pipeline Company (CPG) tendered for filing to its pro forma FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

Substitute Original Sheet No. 107
Second Substitute Original Sheet No. 255
Substitute Original Sheet No. 268

CPG states that these tariff sheets revise its pro forma tariff to comply with the Commission's Preliminary Determination issued October 22, 2003 in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before the protest date as shown below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the eLibrary link.

Protest Date: November 21, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. E3-00352 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03-623-00]

Dominion Transmission, Inc.; Notice of Compliance Filing

November 13, 2003.

Take notice that on November 5, 2003, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with a November 1, 2003 effective date:

Substitute Eighteenth Revised Sheet No. 31
Substitute Twenty-Second Revised Sheet No. 32
Substitute Fifteenth Revised Sheet No. 35

Dominion states that the purpose of this filing is to comply with the Commission's October 31 Order in Docket No. RP03-623-000. In response to issues raised in a protest, DTI in its Answer modified its annual Transportation Cost Rate Adjustment (TCRA) filing and filed pro forma tariff sheets to reflect the modifications. DTI states that the Commission in the October 31 Order accepted the changes proposed on the pro forma tariff sheets and directed DTI to file actual tariff sheets consistent with the pro forma proposals and this filing complies with the Commission's directive.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or TTY, contact

(202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00324 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04-23-001]

Gas Transmission Northwest Corporation; Notice of Compliance Filing

November 14, 2003.

Take notice that on November 7, 2003, Gas Transmission Northwest Corporation (GTN) tendered for filing various tariff sheets to incorporate into Third Revised Volume No. 1-A, sheets that have recently been approved by the Commission in GTN's superseded FERC Gas Tariff, Second Revised Volume No. 1-A.

GTN states that it recently replaced Second Revised Volume No. 1-A with Third Revised Volume No. 1-A in order to reflect a corporate name change. GTN requests that the Commission accept the above-referenced tariff sheets to be effective on the latter of the date Third Revised Volume No. 1-A became effective or the date the Commission accepted the sheets in the superseded tariff.

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 protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number excluding the last three digits in the docket

number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00350 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04-9-000]

GulfStream Natural Gas System, L.L.C.; Notice of Application

November 14, 2003.

On November 12, 2003, Gulfstream Natural Gas System, L.L.C. (GulfStream), 2701 North Rocky Point Drive, Suite 1050, Tampa, Florida, filed with the Federal Energy Regulatory Commission (Commission) to convert the blanket certificate authority proceeding into an application for authorization pursuant to Section 7(c) of the Natural Gas Act (NGA), as amended, and the Commission's Rules and Regulations thereunder. The certificate requested would authorize construction and operation of a 5.4-mile 30-inch diameter pipeline to a power plant in Martin County, Florida, as previously described in the Prior Notice blanket authority notice issued on November 3, 2003. 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 eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659.

GulfStream states that copies of this filing have been mailed to all parties on the Official Service List in this proceeding. Further, GulfStream states it will comply with Section 157.6 of the Commission's regulations and notify all affected landowners.

Questions regarding the application may be directed to P. Martin Teague, Assistant General Counsel, Gulfstream Natural Gas System, L.L.C., 2701 Rocky

Point Drive, Tampa, Florida 33607, at (813) 282-6609 or pmteague@duke-energy.com.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this application should, on or before November 26, 2003, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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 "eFiling" link. Previously filed comments, protests and interventions in this docket do not have to be refiled. The Commission strongly encourages electronic filings.

Comment Date: November 26, 2003.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00339 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP04-4-001]****Kern River Gas Transmission Company; Notice of Compliance Filing**

November 13, 2003.

Take notice that on November 10, 2003, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute First Revised Sheet No. 95, to be effective November 1, 2003.

Kern River states that the purpose of this filing is to comply with the Commission's October 31, 2003 Letter Order by revising proposed section 5.8 of the General Terms and Conditions of Kern River's tariff to clarify that Kern River is entitled to recover expenses, costs or attorneys' fees incurred to recover amounts owed by a defaulting party only from such defaulting party.

Kern River states that it has served a copy of this filing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00325 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP99-176-094]****Natural Gas Pipeline Company of America; Notice of Negotiated Rates**

November 14, 2003.

Take notice that on November 5, 2003, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Original Sheet Nos. 26W.19a and Original Sheet No. 26W.19b, to be effective December 1, 2002.

Natural states that the purpose of this filing is to reflect an amendment, which also was tendered for filing, to an existing index-based negotiated rate agreement between Natural and Northern Indiana Public Service Company under Natural's Rate Schedule FTS, pursuant to Section 49 of the General Terms and Conditions (GT&C) of Natural's Tariff.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list in Docket No. RP99-176.

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 385.214 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 "eLibrary". 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.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00338 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP99-176-093]****Natural Gas Pipeline Company of America; Notice of Negotiated Rates**

November 14, 2003.

Take notice that on November 5, 2003, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Third Revised Sheet No. 26W.03, to be effective November 5, 2003.

Natural states that the purpose of this filing is to cancel Natural's tariff sheets setting forth an expired negotiated rate transaction.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list in Docket No. RP99-176.

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 § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 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 "eLibrary". 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.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00351 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03-343-001]

Northern Natural Gas Company; Notice Of Compliance Filing

November 14, 2003.

Take notice that on November 10, 2003, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of October 14, 2003:

Substitute Seventh Revised Sheet No. 252
Substitute Third Revised Sheet No. 253
Substitute First Revised Sheet No. 253A

Northern states that the filing is being made in compliance with the Commission's Order issued on October 10, 2003 in this proceeding.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00348 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP02-453-001 and RP03-483-001]

Northwest Pipeline Corporation; Notice of Park and Loan Activity Report

November 14, 2003.

Take notice that on November 7, 2003, Northwest Pipeline Corporation (Northwest) tendered for filing a Park and Loan Activity Report.

Northwest states that this report complies with the Commission's Orders dated September 25, 2002 in Docket No. RP02-453-000 and June 25, 2003 in Docket No. RP03-483-000 wherein the Commission directed Northwest to file an activity report detailing Northwest's experience with the implementation of park and loan service.

Northwest states that the Park and Loan Activity Report reflects 12 months experience with park and loan service at the Clay Basin points and 3 months experience with park and loan service at the Jackson Prairie points.

Northwest states that a copy of this filing has been served upon each person designated on the official service list complied by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before the protest date as shown below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at

FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the eLibrary link.

Protest Date: November 21, 2003.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00347 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04-51-000]

Paiute Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

November 13, 2003.

Take notice that on November 7, 2003, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1-A, the revised tariff sheets listed on Appendix A of the filing, to become effective December 7, 2003.

Paiute states that the purpose of the filing is to revise Paiute's tariff to: (1) More accurately define Paiute's operating procedures with respect to its LNG storage facility and at times when the integrity of Paiute's system is threatened; (2) add provisions providing for capacity segmentation and backhaul transportation; (3) reflect the addition of a new receipt point on the system and the removal of a former receipt point; and (4) clarify, improve and/or update the text in various provisions.

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 385.214 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 "eLibrary". 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.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00332 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04-48-000]

Portland General Electric Company; Notice of Tariff Filing

November 13, 2003.

Take notice that on November 3, 2003, Portland General Electric Company (Portland) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, comprised of tariff sheet numbers 1 through 147.

Portland asserts that the purpose of this filing is to comply with the Commission's Order issued October 3, 2003, in Docket Nos. CP01-421-000 and 001. Portland states that it proposes to place its complete FERC Gas Tariff, Original Volume No. 1 into effect on December 3, 2003. The tariff will allow Portland to provide part 284 transportation services.

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 § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 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 "eLibrary". 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.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00328 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04-48-000]

Portland General Electric Company; Notice of Tariff Filing

November 13, 2003.

Take notice that on November 6, 2003, Portland General Electric Company (Portland) tendered for filing a correction to its compliance filing submitted to the Commission on November 3, 2003.

Portland states that the purpose of the compliance filing was to submit its FERC gas tariff in compliance with the Commission's Order issued on October 3, 2003 in the above captioned proceeding. Portland General Electric Co., 105 FERC ¶ 61,023 (2003). Portland states that among other things, the Commission's Order required Portland to comply with the most recent version of the NAESB standards adopted by the Commission. Portland asserts that it inadvertently omitted from its tariff language changes pursuant to NAESB's WGQ recommendations RO2002 and RO2002-2 adopted by the Commission. Portland states that the following is a list of the tariff sheets filed by Portland to comply with WGQ recommendations RO2002 and RO2002-2. Portland indicates that the tariff sheets have a proposed effective date of December 3, 2003.

Substitute Original Sheet No. 94
Substitute Original Sheet No. 95
Original Sheet No. 95A
Original Sheet No. 95B
Substitute Original Sheet No. 129

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-filing link.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00329 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04-43-001]

Southern LNG Inc.; Notice of Tariff Filing

November 13, 2003.

Take notice that on November 7, 2003, Southern LNG Inc. (SLNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of December 1, 2003:

Substitute Seventh Revised Sheet No. 5
Substitute Seventh Revised Sheet No. 6

SLNG states that the substitute sheets replace revised sheets filed on October 31, 2003, that incorrectly totaled the additional charges and surcharges. SLNG further states that the substitute sheets lower the totals, correct the error, and have the same effective date as the sheets filed on October 31, 2003 and therefore, SLNG withdraws the revised sheets, files substitute sheets to lower the totals, and requests a waiver of the 30-day notice requirement.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00326 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00-426-016]

Texas Gas Transmission, LLC; Notice Of Filing Of Negotiated Rate Agreement

November 14, 2003.

Take notice that on October 30, 2003, Texas Gas Transmission, LLC (Texas Gas), submitted for filing a Negotiated Rate Agreement with Tennessee Valley Authority (TVA).

Texas Gas states that the purpose of this filing is to implement a negotiated rate agreement with Tennessee Valley Authority (TVA) that commences on November 1, 2003, and continues month-to-month thereafter until March 31, 2004.

Texas Gas states that copies of this filing are being mailed to all parties on the official service list in this docket, to Texas Gas's official service list, to Texas Gas's jurisdictional customers, and to interested state commissions.

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 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before the date as indicated below. 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 "eLibrary". 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: November 20, 2003.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00345 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00-495-007, RP01-97-006, and RP03-211-003]

Texas Gas Transmission, LLC; Notice Of Compliance Filing

November 14, 2003.

Take notice that on November 6, 2003, Texas Gas Transmission LLC (Texas Gas) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, with the effective date as indicated on the Appendix.

Texas Gas states that this filing complies with "Order on Rehearing, Clarification, and Compliance Filing" (105 FERC ¶ 61,042) issued by the Commission on October 7, 2003. Texas Gas further states that the Commission's acceptance of all the revised tariff provisions previously submitted in its Order Nos. 637, 587-G and 587-L filings was subject to Texas Gas re-filing them for incorporation into its recently approved FERC Gas Tariff, Second Revised Volume No. 1 (Texas Gas Transmission, LLC, June 10, 2003, Docket No. RP03-521).

Texas Gas states that copies of the tariff sheets are being mailed to all parties on the official service lists in these dockets, to Texas Gas's official service list, to Texas Gas's jurisdictional customers, and to interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission,

888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00346 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04-49-000]

Viking Gas Transmission Company; Notice of Proposed Changes In FERC Gas Tariff

November 13, 2003.

Take notice that on November 5, 2003, Viking Gas Transmission Company (Viking) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective on December 5, 2003:

Ninth Revised Sheet No. 69
Tenth Revised Sheet No. 82

Viking states that the purpose of this filing is to revise Section XXI of Viking's tariff to provide a Releasing Shipper with the option to elect a permanent release or a temporary release when releasing capacity for the remaining term of its Transportation Agreement.

Viking further states that copies of this filing have been sent to all of Viking's contracted shippers and interested state regulatory commissions.

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 § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 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 "eLibrary". 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.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00330 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP04-44-000 and 001]

Wyoming Interstate Company, Ltd.; Notice of Proposed Changes in FERC Gas Tariff

November 13, 2003.

Take notice that on October 31, 2003 and November 4, 2003, Wyoming Interstate Company, Ltd. (WIC) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 2, Substitute Eleventh Revised Sheet No. 4B, to become effective December 1, 2003.

WIC states that in its October 31, 2003 filing, it discovered that a minor error was made in calculating the FL&U rates submitted in its filing. WIC states that it mistakenly did not attribute L&U to WIC's Powder River system.

WIC states that the filing November 4, 2003 filing contains the corrected calculation of the WIC FL&E rates and attributes L&U to the Powder River system WIC therefore asks that the November 4 filing be substituted in its entirety for the FL&U filing noted above.

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 385.214 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 "Library". 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.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00327 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC04-14-000, et al.]

Eurus Combine Hills I LLC, et al.; Electric Rate and Corporate Filings

November 14, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Eurus Combine Hills I LLC

[Docket No. EC04-14-000]

Take notice that on November 5, 2003, Eurus Combine Hills I LLC (Eurus Combine), submitted an application pursuant to section 203 of the Federal Power Act, seeking authorization for a transaction that would result in the transfer of indirect control of certain transmission facilities associated with Eurus Combine's planned 41 MW wind farm located in Umatilla County, Oregon. Eurus requests expedited

consideration of its application and certain waivers.

Eurus Combine states that the Transaction will have no effect on competition, rates or regulation and is in the public interest.

Comment Date: November 25, 2003.

2. Medford Energy, LLC

[Docket No. EG04-13-000]

On November 4, 2003, Medford Energy, LLC (Applicant), having its principal place of business at 2 Access Road Patchogue, New York 11772, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Comment Date: November 25, 2003.

3. Conexion Energetica Centroamericana, S.A.

[Docket No. EG04-14-000]

On November 5, 2003, Conexion Energetica Centroamericana, S.A., (Applicant) an entity organized under the laws of the Republic of Guatemala with its principal place of business at Diagonal 6 10-65, Zona 10, Centro Gerencial de Las Margaritas, Torre 1, Nivel 8 Oficina 801, Guatemala, Guatemala, 01010, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicant owns and operates an approximately 43 megawatt hydroelectric power production facility located near the Municipality of Zunil in the Quetzaltenango District, in the Republic of Guatemala and operates a 14 megawatt hydroelectric power production facility located in the Municipality of San Jeronimo in the Baja Verapaz District, in the Republic of Guatemala.

Comment Date: November 25, 2003.

4. Generadora de Occidente, Limitada

[Docket EG04-15-000]

On November 5, 2003, Generadora de Occidente, Limitada, (Applicant) an entity organized under the laws of the Republic of Guatemala with its principal place of business at Diagonal 6 10-65, Zona 10, Centro Gerencial de Las Margaritas, Torre 1, Nivel 8 Oficina 801, Guatemala, Guatemala, 01010, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant owns and operates an approximately 43 megawatt

hydroelectric power production facility located near the Municipality of Zunil in the Quetzaltenango District, in the Republic of Guatemala.

Comment Date: November 25, 2003.

5. Devon Power LLC, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC and NRG Power Marketing Inc.

[Docket No. EL04-16-000]

Take notice that on November 5, 2003, Devon Power LLC, Middletown Power LLC, Montville Power LLC, and Norwalk Power LLC filed a Petition for Declaratory Order finding that the Reliability Cost Tracker mechanism under Section 5.1.3 of the COS Agreements is just and reasonable and not unduly discriminatory or unlawful, and that monies expended for reliability projects pursuant to Section 5.1.3 will not be subject to refund in the event the Reliability Cost Tracker is not extended for another year.

Comment Date: November 25, 2003.

6. Carville Energy LLC, Complainant v. Entergy Services, Inc., Respondent

[Docket No. EL04-20-000]

Take notice that on November 13, 2003, Carville Energy LLC filed a Complaint pursuant to section 206 of the Federal Power Act and Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, against Entergy Services, Inc., seeking transmission credits with interest for network upgrade interconnection costs.

Comment Date: December 4, 2003.

7. Calpine Oneta Power, L.P., Complainant v. American Electric Power Service Corporation, Respondent

[Docket No. EL04-21-000]

Take notice that on November 13, 2003, Calpine Oneta Power, L.P. (Oneta) filed a Complaint pursuant to Section 206 of the Federal Power Act and Rule 206 of the Commission's Rule of Practice and Procedures, 18 CFR 385.206, against American Electric Power Service Corporation d/b/a Public Service Company of Oklahoma (PSO/AEP). Oneta alleges that PSO/AEP: (1) Unjustly and unreasonably assigned the costs of certain interconnection facilities to Oneta in violation of the Commission's precedent and policy; and (2) is implementing its transmission crediting policy in an unduly discriminatory manner contrary to the express terms of AEP's Open Access Transmission Tariff and Commission orders.

Comment Date: December 4, 2003.

8. Constellation Power Source, Inc.

[Docket No. ER97-2261-015]

Take notice that on November 4, 2003, Constellation Power Source, Inc. (CPS) filed with the Federal Energy Regulatory Commission (Commission) a notice of change in status under CPS market-based rate authority pursuant to section 205 of the Federal Power Act and the Commission's Order in Constellation Power Source, Inc., 79 FERC ¶ 61,167 (1997). CPS filed the notice in order to inform the Commission of new contractual services it will be providing.

Comment Date: November 25, 2003.

9. Onondaga Cogeneration Limited Partnership

[Docket No. ER00-895-001]

Take notice that on November 4, 2003, Onondaga Cogeneration Limited Partnership (Onondaga) tendered for filing with the Federal Energy Regulatory Commission (Commission) an updated market power analysis. This filing serves as the triennial market power update and report of change of status for Onondaga in Docket No. ER00-895-000.

Onondaga states it has served a copy of this filing on the Commission's official service list in this docket.

Comment Date: November 25, 2003.

10. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03-869-002]

Take notice that on November 5, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing a compliance filing pursuant to the Order issued on October 21, 2003 in Docket Nos. ER03-869-000 and ER03-869-001.

The Midwest ISO has also requested waiver of the service requirements set forth in 18 CFR 385.2010. The Midwest ISO states that it has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, as well as all state commissions within the region and in addition, the filing has been electronically posted on the Midwest ISO's Web site at www.midwestiso.org under the heading "Filings to FERC" for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: November 26, 2003.

11. Pacific Gas and Electric Company

[Docket No. ER03-1091-002]

Take notice that on November 5, 2003, Pacific Gas and Electric Company (PG&E) tendered for filing a Request for Deferral of Consideration of its "Notice of Termination" dated September 5, 2003, in Docket No. ER03-1091-000, with respect to a generator special facilities agreement between PG&E and Duke Energy Morro Bay, LLC.

PG&E also states that there are five other generators whose interconnection-related agreements are pending in this proceeding.

PG&E states that copies of this filing have been served upon the California Public Utilities Commission and all parties designated on the official service list in this proceeding.

Comment Date: November 26, 2003.

12. Golden Spread Electric Cooperative, Inc.

[Docket No. ER04-70-001]

Take notice that on November 4, 2003, Golden Spread Electric Cooperative, Inc. (Golden Spread) filed amendments to Rider A of Schedule A and to Rider A of Schedule B of Golden Spread's Rate Schedule Numbers 23 through 33.

Comment Date: November 25, 2003.

13. Mid-Continent Area Power Pool

[Docket No. ER04-155-000]

Take notice that on November 4, 2003, the Mid-Continent Area Power Pool (MAPP), tendered for filing an amendment to § 21.2 of Schedule F, which governs modifications of transmission service on a firm basis.

MAPP states that a copy of this filing has been served on all MAPP members and the state commissions in the MAPP region. The filing has also been posted on the MAPP Web site at <http://www.mapp.org>.

Comment Date: November 25, 2003.

14. The Allegheny Power System Operating Companies: Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, all doing business as Allegheny Power; The PHI Operating Companies: Potomac Electric Power Company, Delmarva Power & Light Company, and Atlantic City Electric Company; Baltimore Gas and Electric Company; Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company; PECO Energy Company; PPL Electric Utilities Corporation; Public Service Electric and Gas Company; Rockland Electric Company; and UGI Utilities, Inc.

[Docket Nos. ER04-156-000 and ER04-156-001]

Take notice that on November 4, 2003, The Allegheny Power System Operating Companies: Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, all doing business as Allegheny Power; The PHI Operating Companies: Potomac Electric Power Company, Delmarva Power & Light Company, and Atlantic City Electric Company; Baltimore Gas and Electric Company; Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company; PECO Energy Company; PPL Electric Utilities Corporation; Public Service Electric and Gas Company; Rockland Electric Company; and UGI Utilities, Inc. (Transmission Owners), tendered for filing a new Schedule 12A to the Open Access Transmission Tariff (OATT) of PJM Interconnection, L.L.C. (PJM). Also on November 5, 2003, the Transmission Owners tendered for filing additional supporting exhibits to be included in the November 4 filing. The new schedule, with accompanying sub-schedules, establishes annual carrying charge rates for each of the named Transmission Owners for transmission investments that they make pursuant to PJM's Regional Transmission Expansion Plan. The filing complements the provisions of Schedule 12 of the PJM OATT that are implemented by PJM.

The Transmission Owners propose to make the new Schedule 12A provisions effective 60 days after filing, on January 4, 2004.

The Allegheny Power System Companies state that copies of the filing were served upon PJM and each state public utility commission in the PJM region. In addition, the Transmission Owners requested that PJM post the filing on its Web site, www.PJM.com.

Comment Date: November 25, 2003.

15. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER04-158-000]

Take notice that on November 5, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing its Request for Authorization on behalf of Michigan Electric Transmission Company, LLC (METC) for reimbursement under Schedule 10 of the Midwest ISO Open Access Transmission Tariff.

The Midwest ISO has also requested waiver of the service requirements set forth in 18 CFR 385.2010. The Midwest ISO states it has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, as well as all state commissions within the region and in addition, the filing has been electronically posted on the Midwest ISO's Web site at www.midwestiso.org under the heading "Filings to FERC" for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: November 26, 2003.

16. Southern California Edison Company

[Docket No. ER04-159-000]

Take notice that on November 5, 2003, Southern California Edison Company (SCE) tendered for filing revised rate sheets (Revised Sheets) to the Agreement For Interconnection Service and the Interconnection Facilities Agreement between SCE and Harbor Cogeneration Company (Harbor), Service Agreement Nos. 2 and 9 under SCE's FERC Electric Tariff, First Revised Volume No. 6. SCE requests an effective date of October 31, 2003.

SCE states that the Revised Sheets to these agreements reflect an extension of their terms and conditions to provide interconnection service to Harbor's 110 MW generating facility through November 30, 2003. SCE further states that copies of this filing were served upon the Public Utilities Commission of the State of California and Harbor.

Comment Date: November 26, 2003.

17. Northern Indiana Public Service Company

[Docket No. ER04-162-000]

Take notice that on November 5, 2003, Northern Indiana Public Service Company (NIPSCO) tendered for filing revisions to its Open Access Transmission Tariff (OATT) and notices

of cancellation of certain Point-to-Point Transmission Service agreements. NIPSCO seeks an effective date of October 1, 2003, for these revisions to its OATT and notice of cancellation. NIPSCO states that this filing is being made because, as of October 1, 2003, NIPSCO transferred functional control of its transmission facilities to GridAmerica LLC (GridAmerica), an independent transmission company (ITC) under Appendix I to the OATT of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO).

NIPSCO has requested any waivers necessary to permit its revised OATT and the notices of cancellation to become effective October 1, 2003.

Comment Date: November 26, 2003.

18. Front Range Energy Associates, L.L.C.

[Docket No. ER04-163-000]

Take notice that on November 5, 2003, Front Range Energy Associates, L.L.C. (Front Range Energy) submitted for filing a Notice of Cancellation of its Market-based Rate Tariff. Front Range Energy states that it is an inactive company and requests the cancellation be effective immediately.

Comment Date: November 26, 2003.

19. GulfStream Energy, LLC

[Docket No. ER04-164-000]

Take notice that on November 5, 2003, Gulfstream Energy, LLC, tendered for filing a Notice of Cancellation of its Market-based Rate Tariff and requested an effective date of November 4, 2003. Gulfstream Energy, LLC states that it has never done any business or trading of energy or other products or services.

Comment Date: November 26, 2003.

20. LG&E Energy Marketing Inc.

[Docket No. ER04-166-000]

Take notice that on November 5, 2003, LG&E Energy Marketing Inc. (LEM) submitted for filing with the Commission an executed Operating Assumptions and Practices Agreement (Agreement) between LEM and Big Rivers Electric Corporation (BREC).

LEM requests the Agreement to be accepted for filing effective July 1, 2003, and requests waiver of the Commission's notice requirements in order for the Agreement to be accepted for filing on the date requested.

Comment Date: November 26, 2003.

21. FPL Energy VG Repower Wind, LLC

[Docket No. ER04-167-000]

Take notice that on November 5, 2003, FPL Energy VG Repower Wind, LLC tendered for filing an application for authorization to sell energy,

capacity, and ancillary services at market-based rates pursuant to Section 205 of the Federal Power Act.

Comment Date: November 26, 2003.

22. FPL Energy 251 Wind, LLC

[Docket No. ER04-168-000]

Take notice that on November 5, 2003, FPL Energy 251 Wind, LLC tendered for filing an application for authorization to sell energy, capacity, and ancillary services at market-based rates pursuant to section 205 of the Federal Power Act.

Comment Date: November 26, 2003.

23. Midwest Generation EME, LLC, Complainant; Commonwealth Edison Company and Exelon Generation Company, LLC, Respondents

[Docket Nos. ER04-190-000 and Docket No. EL04-22-000]

Take notice that on November 13, 2003, Midwest Generation EME, LLC (MWGen) tendered for filing, under section 205 of the Federal Power Act (FPA), a tariff for Reactive Supply and Voltage Control from Generation Sources Service (Reactive Power) service provided to the transmission facilities controlled by Commonwealth Edison Company (ComEd) and filed a conditional complaint requesting fast track processing under section 206 of the FPA against ComEd and Exelon Generation Company, LLC (Exelon Generation). MWGen requests that the Commission accept for filing its FERC Electric Tariff, Original Volume No. 3 (Tariff) to become effective on January 1, 2004 for the collection of Reactive Power rates from ComEd. MWGen alleges in its conditional complaint that ComEd has improperly allocated all of the revenues ComEd receives from transmission customers for Reactive Power to its affiliate, Exelon Generation, which is unduly discriminatory and in violation of sections 205 and 206 of the FPA and Commission policy. MWGen states that if the Commission accepts MWGen's Tariff without change and without setting it for hearing, then MWGen does not require the relief requested in this conditional complaint and therefore withdraws it. However, if the Commission sets MWGen's Tariff for hearing or does not accept it as proposed, then MWGen requests that the Commission conduct a hearing regarding ComEd's Reactive Power payments to Exelon Generation and require ComEd to compensate MWGen for Reactive Power to the same degree that it compensates its affiliate, Exelon Generation.

MWGen states that it has served a copy of this filing on ComEd, Exelon

Generation and the Illinois Commerce Commission.

Comment Date: December 5, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or TTY, (202) 502-8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E3-00353 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL03-123-001, et al.]

Richard Blumenthal, Attorney General, et al.; Electric Rate and Corporate Filings

November 12, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Richard Blumenthal, Attorney General of the State of Connecticut, and the Connecticut Department of Public Utility Control v. NRG Power Marketing Inc., Connecticut Light and Power Company

[Docket Nos. EL03-123-001, EL03-134-000, and EL03-129-000]

Take notice that on November 7, 2003, The Connecticut Light and Power Company, Richard Blumenthal, the Attorney General for the State of Connecticut, the Connecticut Department of Public Utility Control, the Connecticut Office of Consumer Counsel, the Official Committee of Unsecured Creditors for NRG Energy, Inc. and its Debtor Subsidiaries, and NRG Power Marketing Inc. filed a settlement agreement and explanatory statement addressing the terms by which the parties to such settlement agreement shall resolve litigation and by which NRG Power Marketing, Inc. shall provide service to The Connecticut Light and Power Company.

Initial Comment Date: November 18, 2003.

Reply to Comments: November 21, 2003.

2. ISO New England Inc.

[Docket No. ER04-121-000]

Take notice that on October 31, 2003, ISO New England Inc. (the ISO) made a filing under Section 205 of the Federal Power Act of revised tariff sheets for recovery of its administrative costs for 2004. The ISO requests that these sheets be allowed to go into effect on January 1, 2004.

The ISO states that copies of the transmittal letter were served upon each non-Participant entity that is a customer under the NEPOOL Open Access Transmission Tariff, as well as on the governors and utility regulatory agencies of the six New England States, and NECPUC. ISO further states that NEPOOL Participants were served with the entire filing electronically and the filing is posted on the ISO's Web site (<http://www.iso-ne.com>).

Comment Date: November 21, 2003.

3. Bangor Hydro-Electric Company, Central Maine Power Company, NSTAR Electric & Gas Corporation, on behalf of its affiliates: Boston Edison Company, Commonwealth Electric Company, Cambridge Electric Light Company, Canal Electric Company, New England Power Company; Northeast Utilities Service Company, on behalf of its operating company affiliates: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Holyoke Power and Electric Company, Holyoke Water Power Company, The United Illuminating Company, Vermont Electric Power Company, Central Vermont Public Service Company, and Green Mountain Power Corporation

[Docket No. ER04-157-000]

Take notice that on November 4, 2003, Bangor Hydro-Electric Company, Central Maine Power Company, NSTAR Electric & Gas Corporation, New England Power Company, Northeast Utilities Service Company, The United Illuminating Company, Vermont Electric Power Company, Central Vermont Public Service Corporation, and Green Mountain Power Corporation (collectively, the New England Transmission Owners) filed, pursuant to section 205 of the Federal Power Act, a request for approval of a return on common equity component of the regional and local transmission rates under the Regional Transmission Organization for New England (RTO-NE) open access transmission tariff.

The New England Transmission Owners state that they are serving a copy of this filing on the Governors and utility regulatory commissions of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The New England Transmission Owners further state that a copy of the filing is being served electronically on Participants in the New England Power Pool (NEPOOL) and the filing has been electronically posted on the RTO-NE Web site (<http://www.rto-ne.com/>) under the heading "Legal Filings," and those New England transmission customers (including customers under the local tariffs of the New England Transmission Owners) that are not Participants in NEPOOL have been provided notice of such posting. The New England Transmission Owners state that they will provide a hard copy of this filing to any interested party upon request; to the extent that such notice procedures do not technically comply with any of the service requirements set forth in the

Commission's regulations, the New England Transmission Owners request waiver of such requirements to permit service of this filing in the manner described above.

Comment Date: December 1, 2003.

4. ISO New England Inc., Bangor Hydro-Electric Company, Central Maine Power Company, NSTAR Electric & Gas Corporation, on behalf of its affiliates: Boston Edison Company, Commonwealth Electric Company, Cambridge Electric Light Company, Canal Electric Company, New England Power Company, Northeast Utilities Service Company, on behalf of its operating company affiliates: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Holyoke Power and Electric Company, Holyoke Water Power Company, The United Illuminating Company, and Vermont Electric Power Company

[Docket Nos. RT04-2-000 and ER04-116-000]

Take notice that on October 31, 2003, ISO New England Inc., Bangor Hydro-Electric Company, Central Maine Power Company, NSTAR Electric & Gas Corporation, New England Power Company, Northeast Utilities Service Company, The United Illuminating Company and Vermont Electric Power Company (collectively, Filing Parties) filed, pursuant to Section 205 of the Federal Power Act and in accordance with Order No. 2000, a request for approval of a regional transmission organization for New England.

The Filing Parties states that they are serving a copy of the request on the Governors and utility regulatory commissions of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont, and New England transmission customers that are not participants in the New England Power Pool (NEPOOL). Filing Parties further state that a copy of the request is being served electronically on the NEPOOL Participants and a copy is being posted on the website of ISO New England Inc.

Comment Date: December 1, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502-8222 or TTY, (202) 502-8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E3-00337 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8657-064]

Virginia Hydrogeneration and Historical Society, L.C.; Notice of Availability of Draft Environmental Assessment

November 14, 2003.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's Regulations, 18 CFR Part 380 (FERC Order No. 486, 52 FR. 47897), the Office of Energy Projects staff (staff) reviewed the Order Proposing Revocation of License for the Harvell Dam Project, located on the Appomattox River in Petersburg, Virginia, and prepared an environmental assessment (EA) for the proposed action at the project. In this EA, staff analyzed the potential environmental effects of the revocation of license and concluded that the revocation, or any other alternative considered, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the EA is available for review at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC

20426 or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1-866-208-3676 or e-mail FERCOnlineSupport@ferc.gov. For TTY, call (202) 502-8659.

Any comments should be filed with the Commission by December 15, 2003, and should be addressed to Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, at 888 First Street, NE., Washington, DC 20426. Please affix "Harvell Dam Project No. 8657-064" to all comments. Please provide an original and seven copies of comments. For further information, please contact Monica Maynard at (202) 502-6013, or at monica.maynard@ferc.gov.

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 at <http://www.ferc.gov> under the "e-Filing" link. The Commission strongly encourages electronic filings.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00344 Filed 11-20-03; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11659-002, Alaska]

Gustavus Electric Company; Notice of Intention to Hold Public Meetings on the Draft Environmental Impact Statement for the Falls Creek Hydroelectric Project and Land Exchange

November 13, 2003.

On November 7, 2003, the Draft Environmental Impact Statement (DEIS) for the Falls Creek Hydroelectric Project and Land Exchange was noticed in the **Federal Register** by the U.S. Environmental Protection Agency. The DEIS was prepared jointly by the Federal Energy Regulatory Commission and the National Park Service. The DEIS evaluates the environmental

consequences of issuing a license for the construction and operation of the Falls Creek Hydroelectric Project on the Kahtaheena River (Falls Creek), the exchange of Federal land within Glacier Bay National Park and Preserve with state land, and the removal of land from wilderness designation and the designation of other land as wilderness.

Comments on the DEIS are due by January 6, 2004. All comments should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "e-Filing" link.

Commission and National Park Service staff will conduct public meetings to present the DEIS findings, answer questions about the findings, and solicit public comment. The public meetings will be recorded by a court reporter, and all meeting statements (oral or written) will become part of the public record for this proceeding.

The meetings will be held at the following locations:

December 8, 2003: City Hall, Hoonah, Alaska.

December 9, 2003: Gustavus School—Multi-Purpose Room, Gustavus, Alaska.

December 10, 2003: Hammond Room—Centennial Hall, 101 Egan Drive, Juneau, Alaska.

December 11, 2003: Glacier Room—Clarion Suites, 325 W. 8th Avenue, Anchorage, Alaska.

Each meeting will begin at 7 p.m. and end at 9 p.m.

For further information or copies of the DEIS, please contact Bob Easton (FERC) at (202) 502-6045 or Bruce Greenwood (NPS) at (907) 644-3527.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00336 Filed 11-20-03; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11859-002]

Arizona Independent Power, Inc.; Notice of Surrender of Preliminary Permit

November 14, 2003.

Take notice that Arizona Independent Power, Inc., permittee for the proposed Azipco Pumped Storage Project, has requested that its preliminary permit be terminated. The permit was issued on February 16, 2001, and would have expired on January 31, 2004.¹ The project would have been located on Beardsley Canal in Maricopa County, Arizona.

The permittee filed the request on September 25, 2003, and the preliminary permit for Project No. 11859 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Magalie R. Salas,
Secretary.

[FR Doc. E3-00340 Filed 11-20-03; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 11933-001, 11935-001 and 11938-001]

Bliss-Gooding Highway Hydropower, Inc., et al.; Notice of Surrender of Preliminary Permits

November 14, 2003.

Take notice that the permittees for the subject projects have requested to surrender their preliminary permits. Sufficient preliminary engineering and financial studies have determined that the projects would not be economically feasible.

Project No.	Project Name	Stream	State	Expiration date
11933-001	Bliss-Gooding Highway	Malad River	ID	09-30-2004
11935-001	Inlet Project	Jim Byrns Slough	ID	11-30-2004

¹ 94 FERC ¶62,153.

Project No.	Project Name	Stream	State	Expiration date
11938-001	Y Canal	N. Side Canal Company irrigation system	ID	08-31-2004

The permits shall remain in effect through the thirtieth day after issuance of this notice unless that day is Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case each permit shall remain in effect through the first business day following that day. New applications involving these project sites, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Magalie R. Salas,

Secretary.

[FR Doc. E3-00341 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12318-001]

Edgewater, LLC; Notice of Surrender of Preliminary Permit

November 14, 2003.

Take notice that Edgewater, LLC, permittee for the proposed Ball Band Hydro Works Project, has requested that its preliminary permit be terminated. The permit was issued on February 11, 2003, and would have expired on January 31, 2006.¹ The project would have been located on the St. Joseph River in St. Joseph County, Indiana.

The permittee filed the request on October 20, 2003, and the preliminary permit for Project No. 12318 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Magalie R. Salas,

Secretary.

[FR Doc. E3-00343 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12139-001]

Public Utility District No. 1 of Franklin County; Notice of Surrender of Preliminary Permit

November 14, 2003.

Take notice that Public Utility District No. 1 of Franklin County, permittee for the proposed EBC 625 Hydroelectric Project, has requested that its preliminary permit be terminated. The permit was issued on April 19, 2002, and would have expired on March 31, 2005.¹ The project would have been located at Station 625+00 on Eltopia Branch Canal in Franklin County, Washington.

The permittee filed the request on July 1, 2003, and the preliminary permit for Project No. 12139 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Magalie R. Salas,

Secretary.

[FR Doc. E3-00342 Filed 11-20-03; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7589-4]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Consent Decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("CAA" or "Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree to address a lawsuit filed by Our Children's Earth Foundation and Sierra Club: *Our Children's Earth*

Foundation and Sierra Club v. EPA, No. C 03-0770 CW (N.D. Calif., 2003). On February 21, 2003, Our Children's Earth Foundation and Sierra Club filed a complaint claiming that EPA had failed to perform non-discretionary duties under CAA section 111(b) to review and, if appropriate, revise certain new source performance standards ("NSPS") for electric utility steam generating units (40 CFR part 60, subpart Da); industrial-commercial-institutional boilers (Subparts Db and Dc); and stationary gas turbines (subpart GG). Plaintiffs also claimed that EPA had failed to revise the sulfur dioxide limitations in Subpart Da in accordance with section 403 of the Clean Air Act Amendments ("CAAA") of 1990, 104 Stat. 2399, 2631 (1990). Under the proposed consent decree, EPA would be required to revise these NSPS subparts or make determinations that revisions are not appropriate within 24 months from when the Court enters the consent decree. Within that 24 months, EPA would also be required to revise the sulfur dioxide limitations in subpart Da in accordance with section 403.

DATES: Written comments on the proposed consent decree must be received by December 22, 2003.

ADDRESSES: Submit your comments, identified by docket ID number OGC-2003-0004, online at <http://www.epa.gov/edocket> (EPA's preferred method); by e-mail to oei.docket@epa.gov; mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in WordPerfect or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Andrew Gordon, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, telephone (202) 564-7606.

SUPPLEMENTARY INFORMATION:

¹ 102 FERC ¶ 62,096.

¹ 99 FERC ¶ 62,049.

I. Additional Information About the Proposed Consent Decree

Under the terms of the proposed consent decree, once the Court enters the decree EPA will initiate a review of NSPS subparts Da, Db, Dc, and Gg to determine whether they need to be revised. Within twelve months of entry of the consent decree, the appropriate EPA official will sign and promptly forward to the Office of Federal Register proposed revisions to subparts Da, Db, Dc, and Gg or proposed determinations that revisions to any of these subparts is not appropriate in light of readily available information on the efficacy of such standards. EPA would also be required to issue a proposed revision to the sulfur dioxide emission limits in subpart Da in accordance with section 403 of the CAAA of 1990.

Within 24 months from the date of entry of the decree, the appropriate EPA official would need to sign and forward to the Office of Federal Register a final rule revising subparts Da, Db, Dc, and Gg or a final determination that revision of any subpart is not appropriate. Within 24 months, EPA would also need to issue a final rule revising the sulfur dioxide emission limits in subpart Da in accordance with section 403 of the CAAA of 1990.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed consent decree from persons who were not named as parties or interveners to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, based on any comment which may be submitted, that consent to the consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How Can I Get A Copy Of the Consent Decree?

EPA has established an official public docket for this action under Docket ID No. OGC-2003-0004 which contains a copy of the consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, 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 Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

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 identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or on 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 the disclosure of which is restricted by statute. Information claimed as CBI and other information the disclosure of which is restricted by statute is not included in the official public docket or in EPA's electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. 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 submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. 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. 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.

Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket 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. In contrast to EPA's electronic public docket, EPA's electronic mail (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, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: November 14, 2003.

Lisa K. Friedman,

Associate General Counsel, Air and Radiation Law Office, Office of General Counsel.

[FR Doc. 03-29182 Filed 11-20-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7589-5]

Proposed Settlement Agreement, Clean Air Act Petitions for Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement to address petitions for review filed by the Utility Air Regulatory Group, Clean Air Implementation Project, Air Permitting Forum, Alliance of Automobile Manufacturers, and the National Environmental Development Association's Clean Air Regulatory Project (collectively, "Petitioners") in the U.S. Court of Appeals for the District of Columbia Circuit: *Utility Air Regulatory Group v. EPA*, No. 02-1290 (and Consolidated Nos. 02-1291, 02-

1303, 02-1304, and 02-1325) (D.C. Cir.). On or about September 18, 2002, and thereafter, Petitioners filed petitions for review challenging EPA's interpretation of the sufficiency monitoring rules under the Act's Title V operating permits program, 40 CFR 70.6(c)(1) and 71.6(c)(1), as stated in the preamble to an interim final rule published on September 17, 2002 (67 FR 58529), and challenging EPA's State and Federal operating permits program rules in 40 CFR parts 70 and 71, as interpreted. Under the terms of the proposed settlement agreement, Petitioners and EPA (collectively, the "Parties") will promptly file a stipulation for dismissal of the petitions for review if EPA takes final action: (1) Declining to adopt the proposed revision to the text of §§ 70.6(c)(1) and 71.6(c)(1) published on September 17, 2002 (67 FR 58561); and (2) indicating that notwithstanding the recitation in §§ 70.6(c)(1) and 71.6(c)(1) of monitoring as a permit element, EPA has determined that the correct interpretation of §§ 70.6(c)(1) and 71.6(c)(1) is that these provisions do not establish a separate regulatory standard or basis for requiring or authorizing review and enhancement of existing monitoring independent of any review and enhancement as may be required under 40 CFR 70.6(a)(3) and 71.6(a)(3). EPA also has indicated that it does not intend in such final action "to address what constitutes a "gap" under [sections] 70.6(a)(3)(i)(B) and 71.6(a)(3)(i)(B) or criteria for how that "gap" should be filled."

DATES: Written comments on the proposed settlement agreement must be received by December 22, 2003.

ADDRESSES: Submit your comments, identified by docket ID number OGC-2003-0005, online at <http://www.epa.gov/edocket> (EPA's preferred method); by e-mail to oei.docket@epa.gov; mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Wordperfect or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Kerry E. Rodgers, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection

Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone (202) 564-5671.

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Settlement Agreement

Title V of the Clean Air Act requires major stationary sources of air pollution to obtain comprehensive operating permits that assure compliance with applicable requirements under the Act. EPA's regulations in 40 CFR parts 70 and 71 establish minimum requirements for State and Federal Title V operating permits programs, which include monitoring requirements. Petitioners in these consolidated cases challenged EPA's interpretation of the Title V sufficiency monitoring rules, §§ 70.6(c)(1) and 71.6(c)(1), as stated in the preamble to an interim final rule published on September 17, 2002 (67 FR 58529), as well as EPA's State and Federal operating permits program rules in 40 CFR parts 70 and 71, as interpreted.¹ On September 17, 2002, EPA also published a proposed rule (67 FR 58561) requesting public comment on the same interpretation as that set forth in the interim final rule.

The proposed settlement agreement provides that within two days of its execution by the Parties, the Parties will file a joint motion notifying the Court of the agreement and requesting that briefing in these cases be suspended and that the cases be held in abeyance pending implementation of the agreement. The proposed settlement agreement further provides that the Parties will promptly file a stipulation for dismissal of the petitions for review if EPA issues a final action: (1) Declining to adopt the proposed revision to the text of §§ 70.6(c)(1) and 71.6(c)(1) published on September 17, 2002 (67 FR 58561); and (2) indicating that notwithstanding the recitation in §§ 70.6(c)(1) and 71.6(c)(1) of monitoring as a permit element, EPA has determined that the correct interpretation of §§ 70.6(c)(1) and 71.6(c)(1) is that these provisions do not establish a separate regulatory standard or basis for requiring or authorizing review and enhancement of existing monitoring independent of any review and enhancement as may be required under §§ 70.6(a)(3) and 71.6(a)(3). EPA also has indicated that it does not intend in such final action "to address what constitutes a 'gap' under [sections] 70.6(a)(3)(i)(B) and 71.6(a)(3)(i)(B) or criteria for how that 'gap' should be filled."

¹ Case No. 02-1304 did not raise this second challenge.

Under the proposed settlement agreement, if EPA does not issue such final action by January 15, 2004, or if EPA otherwise fails to comply with the terms of the proposed settlement agreement, Petitioners may request that the Court lift the stay and establish a schedule for briefing and argument in these cases and EPA will join Petitioners in a motion making that request. Petitioners will not challenge any final action that is the same in substance as items (1) and (2) above, although Petitioners reserve any rights they may have to challenge any portion of such final action that is not the same in substance.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional Information About Commenting on the Proposed Settlement Agreement

A. How Can I Get a Copy of the Settlement Agreement?

EPA has established an official public docket for this action under Docket ID No. OGC-2003-0005 which contains a copy of the settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, 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 Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

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 identification number.

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. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in EPA's electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. 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 submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. 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. 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.

Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic

public docket 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. In contrast to EPA's electronic public docket, EPA's electronic mail (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, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: November 14, 2003.

Lisa K. Friedman,

Associate General Counsel, Air and Radiation Law Office, Office of General Counsel.

[FR Doc. 03-29184 Filed 11-20-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-7590-1]

California State Nonroad Engine and Vehicle Pollution Control Standards; Authorization of Nonroad Durability Standards, Notice of Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA today, pursuant to section 209(e) of the Clean Air Act (Act), 42 U.S.C. 7543(b), is authorizing California to enforce amendments to its Small Off-Road Engine (SORE) regulations which set new durability standards for covered engines. The California Air Resources Board (CARB), by letter dated October 4, 1999, requested that EPA confirm CARB's finding that these new durability standards and other amendments to the SORE Regulations are within-the-scope of a prior authorization under section 209(e) of the Act, granted by EPA to CARB's original SORE Regulations in July 1995. EPA determined that most of the amendments were within the scope of the prior authorization, but because the durability requirements amendments are brand new standards, EPA offered the opportunity for a public hearing, and requested comments, on these new standards. After completing review of these amendments, EPA is authorizing California to enforce the durability standards.

ADDRESSES: The Agency's Decision Document, containing an explanation of the Assistant Administrator's decision, as well as all documents relied upon in

making that decision, including those submitted to EPA by CARB, are available for public inspection in EPA Air Docket A-2000-09 at the following address: EPA Docket Center (EPA/DC), Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, 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, except on government holidays. The Air Docket telephone number is (202) 566-1742, and the facsimile number is (202) 566-1741. You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.

FOR FURTHER INFORMATION CONTACT:

Robert M. Doyle, Attorney-Advisor, Certification and Compliance Division, (6403), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (U.S. mail), 1301 L Street NW., Washington, DC 20005 (courier mail). Telephone: (202) 343-9258, Fax: (202) 343-2057, E-Mail: Doyle.Robert@EPA.GOV.

SUPPLEMENTARY INFORMATION:

I. Obtaining Electronic Copies of Documents

EPA makes available an electronic copy of this Notice and the Agency's Decision Document on the Office of Transportation and Air Quality (OTAQ) homepage (<http://www.epa.gov/OTAQ>). Users can find these documents by accessing the OTAQ homepage and looking at the path entitled "Recent Additions." This service is free of charge, except any cost you already incur for Internet connectivity. Users can also get the official **Federal Register** version of the Notice on the day of publication on the primary Web site: (<http://www.epa.gov/docs/fedrgstr/EPA-AIR/>).

Please note that due to differences between the software used to develop the documents and the software into which the documents may be downloaded, changes in format, page length, etc., may occur.

II. Background

A. Nonroad Authorizations

Section 209(e)(1) of the Act addresses the permanent preemption of any State, or political subdivision thereof, from adopting or attempting to enforce any standard or other requirement relating to the control of emissions for certain new nonroad engines or vehicles.¹

¹ Section 209(e)(1) of the Act provides:

No State or any political subdivision thereof shall adopt or attempt to enforce any standard or other requirement relating to the control of emissions from either of the following new nonroad engines

Section 209(e)(2) of the Act allows the Administrator to grant California authorization to enforce state standards for new nonroad engines or vehicles which are not listed under section 209(e)(1), subject to certain restrictions. On July 20, 1994, EPA promulgated a regulation that sets forth, among other things, the criteria, as found in section 209(e)(2), by which EPA must consider any California authorization requests for new nonroad engines or vehicle emission standards (section 209(e) rules).²

Section 209(e)(2) requires the Administrator, after notice and opportunity for public hearing, to authorize California to enforce standards and other requirements relating to emissions control of new engines not listed under section 209(e)(1).³ The section 209(e) rule and its codified regulations⁴ formally set forth the criteria, located in section 209(e)(2) of the Act, by which EPA must grant California authorization to enforce its new nonroad emission standards:

40 CFR part 85, subpart Q, § 85.1605 provides:

(a) The Administrator shall grant the authorization if California determines that its standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards.

(b) The authorization shall not be granted if the Administrator finds that:

(1) The determination of California is arbitrary and capricious;

(2) California does not need such California standards to meet compelling and extraordinary conditions; or

(3) California standards and accompanying enforcement procedures are not consistent with section 209.

As stated in the preamble to the section 209(e) rule, EPA has interpreted the requirement that EPA cannot find "California standards and accompanying enforcement procedures are not consistent with section 209" to mean that California standards and accompanying enforcement procedures

or nonroad vehicles subject to regulation under this Act—

(A) New engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower.

(B) New locomotives or new engines used in locomotives. Subsection (b) shall not apply for purposes of this paragraph.

² See 59 FR 36969 (July 20, 1994), and regulations set forth therein, 40 CFR part 85, subpart Q, §§ 85.1601–85.1606.

³ As discussed above, states are permanently preempted from adopting or enforcing standards relating to the control of emissions from new engines listed in section 209(e)(1).

⁴ See 40 CFR part 85, subpart Q, § 85.1605.

must be consistent with section 209(a), section 209(e)(1), and section 209(b)(1)(C), as EPA has interpreted that subsection in the context of motor vehicle waivers.⁵ In order to be consistent with section 209(a), California's nonroad standards and enforcement procedures must not apply to new motor vehicles or new motor vehicle engines. Secondly, California's nonroad standards and enforcement procedures must be consistent with section 209(e)(1), which identifies the categories permanently preempted from state regulation.⁶ California's nonroad standards and enforcement procedures would be considered inconsistent with section 209 if they applied to the categories of engines or vehicles identified and preempted from State regulation in section 209(e)(1).

Finally, because California's nonroad standards and enforcement procedures must be consistent with section 209(b)(1)(C), EPA will review nonroad authorization requests under the same "consistency" criteria that are applied to motor vehicle waiver requests. Under section 209(b)(1)(C), the Administrator shall not grant California a motor vehicle waiver if she finds that California "standards and accompanying enforcement procedures are not consistent with section 202(a)" of the Act. As previous decisions granting waivers of Federal preemption for motor vehicles have explained, State standards are inconsistent with section 202(a) if there is inadequate lead time to permit the development of the necessary technology giving appropriate consideration to the cost of compliance within that time period or if the Federal

⁵ See 59 FR 36969, 36983 (July 20, 1994).

⁶ Section 209(e)(1) of the Act has been implemented, See 40 CFR part 85, subpart Q, §§ 85.1602, 85.1603.

Section 85.1603 provides in applicable part:

(a) For equipment that is used in applications in addition to farming or construction activities, if the equipment is primarily used as farm and/or construction equipment or vehicles, as defined in this subpart, it is considered farm or construction equipment or vehicles. (b) States are preempted from adopting or enforcing standards or other requirements relating to the control of emissions from new engines smaller than 175 horsepower, that are primarily used in farm or construction equipment or vehicles, as defined in this subpart.

Section 85.1602 provides definitions of terms used in § 85.1603 and states in applicable part:

Construction equipment or vehicle means any internal combustion engine-powered machine primarily used in construction and located on commercial construction sites.

Farm Equipment or Vehicle means any internal combustion engine-powered machine primarily used in the commercial production and/or commercial harvesting of food, fiber, wood, or commercial organic products or for the processing of such products for further use on the farm.

Primarily used means used 51 percent or more.

and State test procedures impose inconsistent certification requirements.⁷

With regard to enforcement procedures accompanying standards, EPA must grant the requested authorization unless it finds that these procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards promulgated pursuant to section 213(a), or unless the Federal and California certification test procedures are inconsistent.⁸

Once California has received an authorization for its standards and enforcement procedures for a certain group or class of nonroad equipment engines or vehicles, it may adopt other conditions precedent to the initial retail sale, titling or registration of these engines or vehicles without the necessity of receiving an additional authorization.⁹

If California acts to amend a previously authorized standard or accompanying enforcement procedure, the amendment may be considered within the scope of a previously granted authorization provided that it does not undermine California's determination that its standards in the aggregate are as protective of public health and welfare as applicable Federal standards, does not affect the consistency with section 209 of the Act, and raises no new issues affecting EPA's previous authorization determination.¹⁰

B. The SORE Amendments Request

EPA granted California authorization for its SORE Rule by decision of the Administrator dated July 5, 1995.¹¹ The

⁷ To be consistent, the California certification procedures need not be identical to the Federal certification procedures. California procedures would be inconsistent, however, if manufacturers would be unable to meet both the state and the Federal requirement with the same test vehicle in the course of the same test. See, e.g., 43 FR 32182 (July 25, 1978).

⁸ See, e.g., *Motor and Equipment Manufacturers Association, Inc. v. EPA*, 627 F.2d 1095, 1111–14 (D.C. Cir. 1979), cert. denied, 446 U.S. 952 (1980) (*MEMA J*); 43 FR 25729 (June 14, 1978).

While inconsistency with section 202(a) includes technological feasibility, lead time, and cost, these aspects are typically relevant only with regard to standards. The aspect of consistency with 202(a) which is of primary applicability to enforcement procedures (especially test procedures) is test procedure consistency.

⁹ See 43 FR 36679, 36680 (August 18, 1978).

¹⁰ Decision Document for California Nonroad Engine Regulations Amendments, Dockets A–2000–05 to 08, entry V–B, p. 28.

¹¹ 60 FR 37440 (July 20, 1995). The CARB small engine emission regulations were then called the Utility, Lawn and Garden Engine (ULGE) regulations. The new amendments, among other things, renamed the ULGE regulations as the SORE regulations.

SORE Rule, which applies to all gasoline, diesel, and other fueled utility and lawn and garden equipment engines 25 horsepower and under, with certain exceptions established two "tiers" of exhaust emission standards for these engines (Tier 1 from 1995 through 1998 model years, and Tier 2 for model year 1999 and beyond), as well as numerous other requirements. By letter dated October 4, 1999, CARB notified EPA that it had adopted numerous amendments to its SORE Regulations which were first approved at a public hearing on March 26, 1998. These amendments are the product of CARB's continuing reviews of industry efforts to comply with the requirements of the CARB nonroad program. The Board directed the CARB staff to review the industry progress in developing the technology required to comply with the Tier 2 standards, and to consider issues raised by the industry in this process. The staff recommended to the Board that the SORE regulations "be modified to reflect the realities of the small engine market and the technological capabilities of the industry."¹² These recommended amendments which CARB adopted consequently reduce compliance burdens on manufacturers while also "preserving most of the emission reductions—including most reductions in excess of comparable federal program—that U.S.E.P.A. previously authorized."¹³

In its request letter, CARB asked EPA to confirm the CARB determination that the amendments to the SORE regulations set forth in its request package are within the scope of the 209(e) authorization of the original authorization granted by EPA for the SORE Rule in July 1995. EPA has made such a determination for most of the regulation amendments included in the CARB request.¹⁴ EPA also determined, on the other hand, that one set of regulation amendments in this request cannot be considered within the scope of the previous authorization because these particular amendments set brand new, more stringent standards and therefore properly should be reviewed as a new authorization request. These amendments set useful life standards for covered engines (where before there were none). Accordingly, EPA offered the opportunity for a public hearing,

¹² CARB Notice of Public Hearing with attached Staff Report, Docket A-2000-09, entry II-B-2, p. 2.

¹³ Letter from CARB to EPA requesting within the scope confirmation for amendments to SORE Rule, dated October 4, 1999, Docket A-2000-09, entry II-B-1, p.3.

¹⁴ Decision Document for California Nonroad Engine Regulations Amendments, Dockets A-2000-05 to 08, entry V-B.

and requested public comments, on these new standards, as the Act requires us to do, by publication of a **Federal Register** notice to such effect on November 20, 2000.¹⁵ There was no request for a public hearing, nor were any comments received on the CARB standards at issue. Therefore, EPA has made this determination based on the information submitted by CARB in its request.

C. Authorization Decision

EPA has decided to authorize California to enforce amendments to its SORE regulations that set durability standards for engines covered by the Rule. In its request letter, CARB stated that the various amendments will not cause the California nonroad standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards. CARB also stated that California's need for the emission reductions retained from the SORE regulations obviously remains compelling. Finally, regarding consistency with section 209, CARB stated that the amendments (1) apply only to nonroad engines and vehicles and not to motor vehicles or engines, (2) apply only to those nonroad engines and vehicles which are not included in the preempted categories, and (3) do not raise any concerns of inadequate leadtime or technological feasibility or impose any inconsistent certification requirements (compared to the Federal requirements).

EPA agrees with all CARB findings with regard to the provisions listed. Additionally, no information was presented to EPA by any party which would demonstrate that California did not meet the burden of satisfying the statutory criteria of section 209(e). For these reasons, EPA authorizes California to enforce these durability standards.

My decision will affect not only persons in California but also the manufacturers outside the State who must comply with California's requirements in order to produce nonroad engines and vehicles for sale in California. For this reason, I hereby determine and find that this is a final action of national applicability.

Under section 307(b)(1) of the Act, judicial review of this final action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for review must be filed by January 20, 2004. Under section 307(b)(2) of the Act, judicial review of this final action may not be obtained in subsequent enforcement proceedings.

¹⁵ 65 FR 69763 (November 20, 2000).

As with past authorization decisions, this action is not a rule as defined by Executive Order 12866. Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12866.

In addition, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3).

Finally, the Administrator has delegated the authority to make determinations regarding authorizations under section 209(e) of the Act to the Assistant Administrator for Air and Radiation.

Dated: November 10, 2003.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 03-29183 Filed 11-20-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

(ER-FRL-6645-7)

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564-7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 04, 2003 (68 FR 16511).

Draft EISs

ERP No. D-AFS-L65429-WA Rating EC2, Gotchen Risk Reduction and Restoration Project, Implementation, Mount Adams Ranger District, Gifford Pinchot National Forest, Skamania and Yakima Counties, WA.

Summary: EPA expressed environmental concerns regarding potential adverse impacts to water quality and designated critical habitat and endangered species from proposed

silvicultural practices in Late-Successional Reserves.

ERP No. D-CGD-L59001-WA Rating LO, Seattle Monorail Project (SMP), Green Line 14-Mile Monorail Transit System Construction and Operation, Reviewing a Water Crossing at the Lake Washington Ship Canal Bridge and Duwamish Waterway Bridge Modification, USCG Bridge, Endangered Species Act Section 7 and U.S. Army COE Section 404 Permits Issuance, City of Seattle, WA.

Summary: EPA expressed no objections to the project as proposed. EPA also expressed support for the project purpose, which would provide an alternate transportation mode for the project area, and encouraged proponents to seek opportunities to maximize links with existing modes.

ERP No. D-FHW-E40798-NC Rating EC2, Greensboro-High Point Road (NC-1486-NC-4121) Improvements from U.S. 311 (I-74) to Hilltop Road (NC-1424), Cities of Greensboro and High Point, Town of Jamestown, Guilford County, NC.

Summary: EPA has environmental concerns with the proposed project regarding the long term protection of water supplies associated with a present intake and the planned downstream Randleman Reservoir. EPA recommends that additional mitigation be evaluated for the abatement of stormwater runoff impacts.

ERP No. D-FHW-L40219-AK Rating EC2, Gravina Access Project, Transportation Improvements between Revillagiedo Island and Gravina Island, Funding, Endangered Species Act 7, NPDES and U.S. Army COE Section 404 Permits Issuance, Ketchikan Gateway Borough, AK.

Summary: EPA has environmental concerns with the proposed project regarding the potential direct and indirect impacts to water quality, wetlands, marine habitat and subsistence resources associated with project construction and subsequent development on Gravina and Pennock Islands. EPA recommends that additional analyses of the No Action and ferry alternative be included in the EIS along with information and maps related to expected future development that reflect the comprehensive planning efforts of the Ketchikan Gateway Borough.

ERP No. D2-AFS-L61190-OR Rating EC2, Mt. Ashland Ski Area Expansion, Site Specific Project, Maintenance and Enhancements of Environmental Resources, Implementation, Special Use Permit, Ashland Ranger District, Rogue River National Forest and Scott River

Ranger District, Klamath National Forest, Jackson County, OR.

Summary: EPA expressed environmental concerns that the expansion may increase sedimentation, degrade water quality, change surface flow, damage high value wetlands and riparian reserves in Ashland Creek, which drains into a municipal water supply reservoir. The Final EIS should include detail on mitigation and minimization measures, and whether such measures compensate for project impacts.

Dated: November 18, 2003.

Joseph C. Montgomery,

Director, NEPA Compliance, Office of Federal Activities.

[FR Doc. 03-29189 Filed 11-20-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6645-6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7167 or <http://www.epa.gov/compliance/nepa>.

Weekly receipt of Environmental Impact Statements

Filed November 10, 2003 Through November 14, 2003.

Pursuant to 40 CFR 1506.9.

EIS No. 030518, Final EIS, FHW, MT, I-15 Corridor Project, Transportation Improvements from Montana City to the Lincoln Road Interchange, Funding and U.S. Army COE Section 404 Permit Issuance, Jefferson and Lewis & Clark Counties, MT, Wait Period Ends: December 22, 2003, Contact: Carl James (406) 449-5302.

EIS No. 030519, Draft EIS, AFS, CA, Meteor Project, Proposal for Harvesting Timber and Conducting Associated Activities on 744 Acres, Implementation, Klamath National Forest, Salmon River Ranger District, Siskiyou County, CA, Comment Period Ends: January 5, 2004, Contact: Margaret J. Boland (530) 841-4501. This document is available on the Internet at: <http://www.fs.fed.us/r5/klamath/projects/project/meteor/>.

EIS No. 030520, Final EIS, AFS, SD, Prairie Project Area, (Lower Rapid Creek Area) Multiple Resource Management Actions, Implementation, Black Hills National Forest, Mystic Ranger District, Pennington County, ID, Wait Period Ends: December 22, 2003, Contact: Robert Thompson (605) 343-1567.

EIS No. 030521, Final EIS, FAA, NJ, Atlantic City International Airport, Air Service Improvements, Economic Development and Efficiency and Safety Enhancements, Airport Layout Plan Approval, Atlantic County, NJ, Wait Period Ends: December 22, 2003, Contact: Daisy Mather (718) 553-2511.

EIS No. 030522, Final EIS, NSA, NM, Chemistry and Metallurgy Research Building Replacement Project, Consolidation and Relocation, Los Alamos National Laboratory, Los Alamos County, NM, Wait Period Ends: December 22, 2003, Contact: Elizabeth Withers (505) 667-8690.

EIS No. 030523, Final EIS, MMS, AK, Cook Inlet Planning Area Oil and Gas Lease Sales 191 and 199, Outer Continental Shelf, Offshore Marine Environment, Cook Inlet, AK, Wait Period Ends: December 22, 2003, Contact: George Valiulis (703) 787-1662.

EIS No. 030524, Final EIS, COE, GA, Lake Sidney Lanier Project to Continue the Ongoing Operation and Maintenance Activities Necessary for Flood Control, Hydropower Generation, Water Supply, Recreation, Natural Resources Management and Shoreline Management, U.S. Army COE Section 10 and 404 Permits, Dawson, Forsyth, Lumpkin, Hill and Gwinnett Counties, GA, Wait Period Ends: January 9, 2004, Contact: Glen Coffee (251) 690-2729.

EIS No. 030525, Draft EIS, AFS, OR, Biscuit Fire Recovery Project, Improve Firefighter Reduce the Risk of High-Intensity, Stand Replace Fire Public and Private Managed Lands, Siskiyou National Forest, Rogue River, Josephine and Curry Counties, OR, Comment Period Ends: January 5, 2004, Contact: Tom Link (541) 471-6500. This document is available on the Internet at: <http://www.biscuitfire.com>.

EIS No. 030526, Draft Supplement, FTA, WA, Central Link Light Rail Transit Project (Sound Transit) Construction and Operation of the North Link Light Rail Extension from Downtown Seattle and Northgate, Funding, Right-of-Way and U.S. Army COE Section Permits, Cities of Seattle, SeaTac and Tukwila, King County, WA, Comment Period Ends: January 30, 2004, Contact: John Witmer (206) 220-4463.

Amended Notices

EIS No. 030513, Draft EIS, NRC, IL, Quad Cities Nuclear Power Station Units 1 and 2, Supplement 16 to NUREG-1437, License Renewal, IL, Comment Period Ends: January 27, 2004, Contact: Louis L. Wheeler (301)

415-1444. Revision of FR Notice
Published on 11/14/03: CEQ
Comment Period Ending 12/29/2003
has been Extended to 1/27/2004.

Dated: November 18, 2003.

Joseph C. Montgomery,

*Director, NEPA Compliance Division, Office
of Federal Activities.*

[FR Doc. 03-29190 Filed 11-20-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT-2003-0064; FRL-7334-5]

Endocrine Disruptor Methods Validation Subcommittee under the National Advisory Council for Environmental Policy and Technology; Notice of Public Meeting

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a meeting of the Endocrine Disruptor Methods Validation Subcommittee (EDMVS), a subcommittee under the National Advisory Council for Environmental Policy and Technology (NACEPT), on December 10-12, 2003. The purpose of this meeting is to: Receive advice and input from the EDMVS on: The Pubertals assay and Aromatase assay prevalidation results; receive the introductory presentation on Adult Intact Male assay; and receive updates on: The Androgen Receptor Binding assay, efforts to finalize reference chemicals, and the Organization for Economic Cooperation and Development (OECD) Fish Drafting Group.

DATES: The meeting will be held on Wednesday, December 10, 2003, from 1 p.m. to 4:45 p.m.; Thursday, December 11, 2003, from 8:30 a.m. to 5 p.m.; and Friday, December 12, 2003, from 8:30 a.m. to Noon, eastern standard time.

Requests to participate in the meeting must be received by EPA on or before December 5, 2003. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPT-2003-0064 in the subject line on the first page of your request.

Individuals requiring special accommodations at the meeting, including wheelchair access, should contact the technical person listed under **FOR FURTHER INFORMATION CONTACT** at least 5 business days prior to the meeting.

ADDRESSES: The meeting will be held at RESOLVE, 1255 23rd St., NW., Suite 275, Washington, DC.

Requests to participate in the meeting may be submitted by e-mail, telephone, fax, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

Comments may be submitted electronically, by fax, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: *TSCA-Hotline@epa.gov.*

For technical information contact: Jane Smith, Designated Federal Official (DFO), Exposure Assessment Coordination and Policy Division (7203M), Office of Science Coordination and Policy, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-8476; fax number: (202) 564-8482; e-mail address: *smith.jane-scott@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 if you produce, manufacture, use, consume, work with, or import pesticide chemicals and other substances. To determine whether you or your business may have an interest in this notice you should carefully examine section 408(p) of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996 (Public Law 104-170), 21 U.S.C. 346a(p), and amendments to the Safe Drinking Water Act (SDWA) (Public Law 104-182), 42 U.S.C. 300j-17. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding this action, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT-2003-0064. The official public docket consists of the documents

specifically referenced in this action, any public comments received, and other related information. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that are available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566-1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566-0282.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A meeting agenda, a list of EDMVS members, and information from previous meetings are available electronically, from the EPA Internet Home Page at <http://www.epa.gov/scipoly/oscpendo/edmvs.htm>.

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 Can I Request to Participate in the Meeting or Submit Comments?

You may submit a request to participate in the meeting through e-mail, telephone, fax, or hand delivery/courier. We would normally accept requests by mail, but in this time of delays in delivery of government mail due to health and security concerns, we cannot assure your request would arrive in a timely manner. Do not submit any information in your request that is considered CBI. Your request must be received by EPA on or before December 5, 2003. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPT-2003-0064 in the subject line on the first page of your request.

In accordance with the Federal Advisory Committee Act (FACA), the public is encouraged to submit written comments on the topic of this meeting.

The EDMVS will have a brief period available during the meeting for public comment. It is the policy of the EDMVS to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EDMVS expects that public statements presented at its meeting will be on the meeting topic and not be repetitive of previously submitted oral or written statements.

1. *Electronically.* If you submit an electronic request to participate in the meeting or comments 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 request or 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 request or comment and allows EPA to contact you in case EPA cannot read your request or comment due to technical difficulties or needs further information on the substance of your request or comment. EPA's policy is that EPA will not edit your request or comment, and any identifying or contact information provided in the body of a request or comment will be included as part of the request or comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your request or comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your request or comment.

i. *EPA Docket.* You may use EPA's electronic public docket to submit a request to participate in the meeting or to submit comments. Go to EPA Dockets at <http://www.epa.gov/edocket/>, and follow the online instructions for submitting materials. Once in the system, select "search," and then key in docket ID number OPPT-2003-0064. 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 request.

ii. *E-mail.* Requests to participate in the meeting or comments may be sent by e-mail to oppt.ncic@epa.gov, Attention: Docket ID Number OPPT-2003-0064. 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 request 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 request that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM by hand delivery, courier, or package service, such as Federal Express, to the technical person listed under **FOR FURTHER INFORMATION CONTACT**. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption. Do not submit any disk or CD ROM through the mail. Disks and CD ROMs risk being destroyed when handled as Federal Government mail.

2. *Telephone or fax.* Telephone or fax your request to participate in the meeting to the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

3. *By hand delivery or courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Bldg., Rm. 6428, 1201 Constitution Ave., Washington, DC. Attention: Docket ID Number OPPT-2003-0064. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564-8930.

II. Background

In 1996, through enactment of FQPA, which amended the FFDCA, Congress directed EPA to develop a screening program, using appropriate validated test systems and other scientifically relevant information, to determine whether certain substances may have hormonal effects in humans. In 1996, EPA chartered a scientific advisory committee, the Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), under the authority of FACA, to advise it on establishing a program to carry out Congress' directive. EDSTAC recommended a multi-step approach including a series of screens (Tier 1 screens) and tests (Tier 2 tests) for determining whether a chemical substance may have an effect similar to that produced by naturally occurring hormones. EPA adopted almost all of EDSTAC's recommendations in the program that it developed, the Endocrine Disruptor Screening Program (EDSP), to carry out Congress' directive.

EDSTAC also recognized that there currently are no validated test systems for determining whether a chemical may have an effect in humans that is similar to an effect produced by naturally occurring hormones. Consequently, EPA is in the process of developing and

validating the screens and tests that EDSTAC recommended for inclusion in the EDSP. In carrying out this validation exercise, EPA is working closely with, and adhering to the principles of the Interagency Coordinating Committee for the Validation of Alternate Methods (ICCVAM). EPA also is working closely with the OECD's Endocrine Testing and Assessment Task Force to validate and harmonize endocrine screening tests of international interest.

Finally, to ensure that EPA has the best and most up-to-date advice available regarding the validation of the screens and tests in the EDSP, EPA established the EDMVS under NACEPT. EDMVS provides independent advice and counsel to the Agency through NACEPT, on scientific and technical issues related to validation of the EDSP Tier 1 screens and Tier 2 tests, including advice on methods for reducing animal use, refining procedures involving animals to make them less stressful, and replacing animals where scientifically appropriate.

The EDMVS has held eight meetings since its establishment in September 2001.

October 2001

The objectives of the first meeting, which was held in October 2001, (docket control number OPPTS-42212D) were for EPA to provide:

1. An overview of the EPA's Endocrine Disruptor Program.
2. Background information on test protocol validation and approaches.
3. For the EDMVS to develop a clear understanding of their scope, purpose, and operating procedures.
4. The EDMVS and the EDSP to determine the next steps.

December 2001

The objectives of the December 2001 meeting (docket control number OPPTS-42212E) were for the EDMVS to provide input and advice on:

1. EDMVS's mission statement and work plan.
2. The *In Utero* Through Lactation assay detailed review paper.
3. The Pubertal assay study design for the Multi-Dose and Chemical Array Protocols.
4. The mammalian 1-generation study design.

March 2002

The objectives of the March 2002 meeting (docket control number OPPTS-42212F) were for the EDMVS to provide input and advice on:

1. EPA's implementation process and practical aspects of validation.
2. The *In Utero* Through Lactation Assay Protocol.
3. The Fish Reproduction assay detailed review paper.

4. Special studies, the Fathead Minnow assays, Vitellogenin assay, and Avian Dosing Protocol.

5. The steroidogenesis detailed review paper.

6. The aromatase detailed review paper.

7. A proposed standard suite of chemicals for testing in the Tier 1 Screening assays.

8. The current efforts related to evaluating the relevance of animal data to human health.

9. EPA's approach to addressing low-dose issues.

June 2002

The objective of the June 2002 teleconference meeting (docket ID number OPPT-2002-0020) was for the EDMVS to provide input and advice on the steroidogenesis detailed review paper.

July 2002

The objectives of the July 2002 meeting (docket ID number OPPT-2002-0029) were:

1. To review the screening criteria, recommended by EDSTAC and adopted by EDSP for screens.

2. To receive an update of the NICEATM estrogen and androgen receptor binding efforts.

3. To discuss and provide advice on general dose setting issues; and to provide comments and advice on:

- A pubertal (special study)—restricted feeding.
- A mammalian 2-generation (draft)—Propylthiouracil (PTU) special study.
- An amphibian metamorphosis detailed review paper.
- An invertebrate detailed review paper.

December 2002

The objective of the December 2002 teleconference meeting (docket ID number OPPT-2002-0059) was for the EDMVS to provide input and advice on the Tier 2 Fish Life Cycle assay detailed review paper.

June 2003

The objectives of the June 5-6, 2003 meeting (docket ID number OPPT-2003-0016) were for the EDMVS to provide input and advice on:

1. The Tier II Mammalian 2-Generation Special Study and the 1-generation extension results.
2. The Tier I Steroidogenesis (Sliced Testes) Study results and validation plan.
3. The Tier I Pre-Optimization, substrate characterization for Aromatase Placental Microsomes Study results.

August 2003

The objectives of the August 18-20, 2003 meeting (docket ID number OPPT-2003-0027) were:

1. Review and discuss the status/results of the prevalidation work on:

- The Fish Screening assay, specifically: The survey of vitellogenin methods in Fathead Minnow, Zebrafish, and Medaka; the comparative evaluation of the Fathead Minnow assays; and the Fish Screen (Non-Spawning) assay.

- The Steroidogenesis Assay Optimized Protocol.

2. Provide input and advice on the:

- EDSP's validation plans for the Fish Screening assay and Steroidogenesis assay.

- Strain/species white paper.

- Chemicals used in EDSP's prevalidation and validation.

- Avian detailed review paper.

- Issues related to the Pubertal assays.

3. Receive an update on the amphibian workshop conducted recently.

III. Meeting Objectives for the December 2003 Meeting

The objectives for the December 10-12, 2003 meeting (docket ID number OPPT-2003-0064) are for EDMVS to provide input and advice on:

1. Discuss the Pubertals assay and Aromatase assay prevalidation results and recommend next steps.

2. Receive introductory presentation on Adult Intact Male assay.

3. Receive updates on:

- Androgen Receptor Binding assay.
- Efforts to finalize reference chemicals.
- OECD Fish Drafting Group.
- Activities regarding *In Vitro* Fish assays.

A list of the EDMVS members and meeting materials are available on our web site (<http://www.epa.gov/scipoly/oscpendo/edmvs.htm>) and in the public docket.

List of Subjects

Environmental protection, Endocrine disruptors, Hazardous substances, Health, Safety.

Dated: November 14, 2003.

Joseph J. Merenda, Jr.,

Director, Office of Science Coordination and Policy.

[FR Doc. 03-29186 Filed 11-20-03; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[OPP-2003-0336; FRL-7333-7]

Dichlormid; 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-2003-0336, must be received on or before December 22, 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: Princess Campbell, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8033; e-mail address: campbell.princess@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 code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 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 ID number OPP-2003-0336. 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.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper form, 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-2003-0336. 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-2003-0336. 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-2003-0336.

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-2003-0336. 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: November 13, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner's summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by Dow AgroSciences LLC, and represents the view of the petitioner. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position 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.

Dow AgroSciences LLC

PP 3E6676

EPA has received a pesticide petition (3E6676) from Dow AgroSciences LLC, 9330 Zionsville Rd., Indianapolis, IN 46268 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 180.469 by

establishing time-limited tolerances for residues of dichlormid (N,N-diallyl dichloroacetamide) (CAS Reg. No. 37764-25-3), in or on sweet corn commodities at 0.05 parts per million (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.* A plant metabolism study has now been completed. Previously, the nature of the residue in corn was understood based on the published metabolism studies of N,N-diallyl-2-chloroacetamide. At that time, it was concluded that the metabolism of dichlormid would follow the pathway of N,N-diallyl-2-chloroacetamide. However, the metabolism of dichlormid in corn is extensive and occurs via two metabolic pathways. In one pathway, dichlormid is de-chlorinated and oxidized to generate N,N-diallyl glycolamide. An alternative pathway is the loss of an allyl group followed by oxidation to form dichloroacetic acid. There is also extensive incorporation into natural constituents. Dow AgroSciences LLC now believes that the qualitative nature of the residue in plants is adequately understood based on a study depicting the metabolism of dichlormid in corn plants.

2. *Analytical method.* As stated in the Agency's Final Rule published August 7, 2002 (67 FR 51102) (FRL-7192-5) establishing time-limited tolerances for dichlormid in field corn and pop corn:

Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-5229; e-mail address: furlow.calvin@epa.gov.

3. *Magnitude of residues.* Fourteen field trials in sweet corn with dichlormid were conducted covering the major growing areas in the United States. Dichlormid was applied preplant incorporated or pre-emergence at an application rate of 0.5 lb active ingredient (a.i.) per acre. In all trials, no detectable residues of dichlormid (LOD 0.01 ppm) were found in the forage, stover or kernels plus cobs with husks removed (K+CWHR)

B. Toxicological Profile

1. *Acute toxicity.* Dichlormid has low acute toxicity as indicated by a range of studies including: A rat acute oral study with a lethal dose (LD)₅₀ of 2,816 milligrams/kilogram (mg/kg) for males and 2,146 mg/kg for females, respectively; a rat acute dermal study with an LD₅₀ of >2,040 mg/kg, and a rabbit acute dermal study with an LD₅₀ of >5,000 mg/kg; a rat inhalation study with an LD₅₀ of >5.5 milligrams/liter (mg/L); a primary eye irritation study in the rabbit showing mild ocular irritation; a primary dermal irritation study in the rabbit showing severe skin irritation; and a skin sensitization study which showed that dichlormid was a mild skin sensitizer in the guinea pig.

2. *Genotoxicity.* Dichlormid was not mutagenic in a range of *in vitro* assays, including the Salmonella/microsome (Ames) assay, the human lymphocyte cytogenetic assay (both assays with and without metabolic activation), and an unscheduled DNA synthesis (DNA repair) assay in hepatocytes. In the L5178Y mouse lymphoma assay, small increases in mutant frequency were observed only at cytotoxic concentrations, and were not considered to be significant. *In vivo*, dichlormid was negative in the mouse micronucleus test and in the rat unscheduled DNA synthesis assay, when tested at the maximum tolerated dose.

3. *Reproductive and developmental toxicity.* In a developmental toxicity study, rats were dosed orally by gavage with 0, 10, 40, or 160 mg/kg/day. The no observed adverse effect level (NOAEL) for maternal toxicity was 10 mg/kg/day based on a reduction in body weight gain and food consumption at 40 and 160 mg/kg/day. The developmental NOAEL was determined to be 40 mg/kg/day based on marginal foetotoxic effects, including extra 14th ribs probably due to maternal stress, slight sternbra misalignment and some centra unossified, at 160 mg/kg/day.

In a developmental toxicity study, rabbits were dosed orally by gavage with 0, 5, 30, or 180 mg/kg/day. The lowest observed effect level (LOAEL) for both maternal and fetotoxicity was 180 mg/kg/day characterized by reduced body weight gain and food consumption, and a small increase in post implantation loss, an increased number of early resorptions, a decreased number of fetuses per litter and evidence of foetotoxicity (partial ossification and misshapen/fused sternbrae). The NOAEL for both maternal and developmental toxicity was 30 mg/kg/day.

In a two-generation reproduction study in rats fed diets of 0, 15, 75, and 500 ppm of dichlormid, dietary administration of 500 ppm dichlormid (48.5 mg/kg/day) for two successive generations resulted in decreased body weights and increased liver weights in parents and pups of both generations. There were no effects on reproductive performance or reproductive organs at dose levels up to and including 500 ppm dichlormid. There were no toxicologically significant effects in parents or offspring at a dose level of 75 ppm dichlormid (>7.4 mg/kg/day).

4. *Subchronic toxicity.* In a subchronic toxicity study, groups of 12 male and 12 female Wistar-derived alpk:ApfSD rats were fed diets containing 0, 20, 200, or 2,000 ppm dichlormid for 90 days. Significant reductions in body weight gain and food consumption were seen in male and female rats receiving 2,000 ppm dichlormid, and to a lesser degree, in females at 200 ppm. The liver was identified as the principal target organ (enlargement increased APDM activity in females, centrilobular hypertrophy, increased bile duct pigmentation) in the 2,000 ppm group. The NOAEL was 20 ppm (equivalent to approximately 1.8 mg/kg/day), and the LOAEL was 200 ppm based on reduced body weight gain and food consumption, and a marginal increase in APDM activity in females and liver enlargement in males.

In a 90-day dog feeding study, previously submitted and reviewed by EPA, animals were dosed (4 dogs/sex/dose) at 0, 1, 5, 25, and 50 mg/kg/day. The NOAEL was 5 mg/kg/day, and the LOAEL 25 mg/kg/day based on reduced body weight gain, increased liver weight and degenerative changes involuntary muscle with an associated increase in plasma creatine kinase and alkaline phosphatase activity between 6 and 10 weeks.

In a 14-week rat inhalation study, groups of 18 male and 18 female Sprague-Dawley CD rats were subjected to a whole body exposure of 0, 2.0, 19.9, or 192.5 mg/m³ for 6 hours per day, 5 days per week. The NOAEL was 2.0 mg/m³ based on histopathologic tissue alterations to the nasal olfactory epithelium at 19.9 and 192.5 mg/m³, suggesting that dichlormid was a mild irritant to the nasal cavity. An increase in relative liver, kidney and lung weights at 19.9 and 192.5 mg/m³ was not supported by gross or histopathological observations.

5. *Chronic toxicity.* Rats (64/sex/group) were fed diets containing 0, 20, 100, or 500 ppm dichlormid (0, 1.3, 6.5, 32.8 mg/kg/day for males and 0, 1.5, 7.5, 37.1 mg/kg/day for females) for up to 2

years. At 500 ppm in both males and females, there were treatment-related effects on growth and food consumption, minor reductions in plasma triglycerides, and in males, increased liver weights accompanied by hepatocyte vacuolation and pigmentation effects. In females, there was a slight overall increase in malignant tumors, primarily uterine adenocarcinomas, at 500 ppm, but this specific increase was within the spontaneous incidence observed in historical data. It was concluded that there was no evidence of oncogenicity associated with dichlormid treatment. The NOAEL for chronic toxicity was 100 ppm (6.5 and 7.5 mg/kg/day for males and females, respectively).

In an 18-month oncogenicity study, mice (55/sex/group) were fed dichlormid at doses of 0, 10, 50, or 500 ppm (0, 1.4, 7.0, 70.7 mg/kg for males and 0, 1.84, 9.2, 92.4 mg/kg for females). At 500 ppm, there was a slight increase in mortality for females from week 64 onward, and body weights and food utilization were reduced in males, and to a lesser extent, in females. Also, mice fed 500 ppm dichlormid showed non-neoplastic changes which were minor and consisted of changes in severity or incidence of common spontaneous findings. Based on these effects, the chronic NOAEL was 50 ppm (7.0 and 9.2 mg/kg/day for males and females, respectively). There was a marginal increase in Harderian gland adenomas in males at 500 ppm, but this was considered to reflect the variable spontaneous tumor rate seen in this strain and sex of mouse. It was concluded there was no evidence of oncogenicity associated with dichlormid treatment.

Based on available chronic toxicity data, the reference dose (RfD) for dichlormid is 0.07 mg/kg/day. This RfD is based on the 2-year feeding study in rats with a NOAEL of 7 mg/kg/day. An uncertainty factor of 100 was used to account for interspecies extrapolation and intraspecies variability. The 2-year rat study is consistent with, but supersedes the 90-day rat study. The 2-year rat NOAEL of 7 mg/kg/day lies between 1.8 and 18 mg/kg/day derived from the NOAEL and LOAEL figures of 20 and 200 ppm, respectively, for the most recent 90-day rat study. Thus, the overall NOAEL in the rat for both chronic and subchronic exposure should be regarded as 7 mg/kg/day. Based on the proposed Guidelines for Carcinogenic Risk Assessment (July 1999), dichlormid is not likely to be a human carcinogen, and a margin of exposure (MOE) approach should be used for human risk assessment.

6. *Animal metabolism.* Dichlormid was well absorbed, extensively metabolized and eliminated mainly in the urine within 24 hours. A significant proportion of the dose, up to 11%, was exhaled as CO₂. Two routes of biotransformation have been identified. One route involved the formation of an alcohol N,N-diallylglycolamide before subsequent oxidation to N,N-diallyloxamic acid, a major metabolite present in the urine and feces of both sexes. N,N-diallylglycolamide also undergoes further biotransformation to minor dechlorinated metabolites. In the second metabolic pathway, dichloroacetic acid present in the urine of both sexes is formed either directly from dichlormid or indirectly by transformation of N-allyl-2,2-dichloro-N-(2,3-dihydroxypropyl)acetamide. Entero-hepatic recirculation plays a major role in the distribution, metabolism and excretion of dichlormid. The elimination as CO₂, the even elimination in urine over the first 24 hours, and wide distribution of retained radioactivity indicates some incorporation into endogenous metabolic processes.

7. *Metabolite toxicology.* No unique plant or soil metabolites have been identified that warrant a separate toxicological assessment.

8. *Endocrine disruption.* There is no overall trend in the toxicology data base that indicates that dichlormid would have endocrine disrupting activity. The mammalian and ecotoxicology data bases do not indicate significant adverse effects associated with endocrine disrupter activity.

C. Aggregate Exposure

1. *Dietary—i. Food.* In conducting a chronic dietary risk assessment, reference is made to the conservative assumptions made by EPA in establishing dichlormid time-limited tolerances on March 27, 2000 (65 FR 16143) (FRL-6498-7), 100% crop treated (CT), and that all commodities contain residues at the tolerance or proposed tolerance. The analysis was determined using the Novigen Dietary Exposure Evaluation Model (DEEM Version 6.2) software and the United States Department of Agriculture (USDA) nationwide Continuing Surveys of Food Intake by Individuals (CSFII) survey that was conducted from 1994 through 1996.

ii. *Drinking water.* Dichlormid is very rapidly degraded in soil (laboratory measured aerobic half-life of 8 days) and applied at a maximum rate of 0.5 lb/acre, so despite only exhibiting moderate adsorption to soil (Koc 36–49), the leaching potential for dichlormid to

reach ground water is expected to be low. The impact of the interactive processes of adsorption and degradation on leaching have been assessed using EPA mathematical models of pesticide movement in soil. Drinking water estimate concentrations (DWECE) were calculated for ground water using Screening Concentration in Ground water (SCI-GROW) modeling, and surface water estimate concentrations were calculated using Generic Estimated Environmental Concentration (GENEEC) modeling. These models predict a ground water concentration of 0.05 ppb and surface water concentrations of 27.3 parts per billion (ppb) for an instantaneous peak, and 26.9 ppb for a 56-day average. However, the interim Agency policy allows the average 56-day GENEEC values to be divided by 3 (9.0 ppb) to obtain a value for chronic risk assessments. Drinking water levels of concern (DWLOC) were calculated for both chronic and acute exposure. As stated in the March 27, 2000 final rule:

...the modeled groundwater and surface water concentrations are less than the DWLOCs for dichlormid in drinking water for acute and chronic aggregate exposures. Thus, the Agency is able to screen out dichlormid drinking water risks.

Dow AgroSciences LLC does not expect exposure to dichlormid residues in drinking water to be a concern, as a result of the increased exposure pattern.

2. *Non-dietary exposure.* The general population is not expected to be exposed to dichlormid through non-dietary routes since dichlormid is used only on agricultural crops and is not used in or around the home.

D. Cumulative Effects

The potential for cumulative effects of dichlormid and other substances that have a common mechanism of toxicity have been considered. There is no reliable information to suggest that dichlormid has any toxic effects that arise from toxic mechanisms common to other substances. Therefore, a consideration of common mechanism and cumulative effects with other substances is not appropriate for dichlormid.

E. Safety Determination

1. *U.S. population—i. Chronic risk.* Using the conservative exposure assumptions described earlier, and based on the completeness and reliability of the toxicity data base for dichlormid, the theoretical maximum residue concentration (TMRC) for the general U.S. population is calculated to be 0.0009 mg/kg/day, or 4.1% of the cPAD (0.0022 mg/kg/day). The most highly exposed subgroup are children

aged 1–6 years with a TMRC of 0.000211 mg/kg/day, or 9.6% of the cPAD. As EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health, Dow AgroSciences LLC believes that there is a reasonable certainty that no harm will result from aggregate exposure to dichlormid residues.

ii. *Acute risk.* The acute toxicity of dichlormid is low, and there are no concerns for acute-dietary, occupational or non-occupational exposures to dichlormid.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of dichlormid, data from developmental toxicity studies in the rat and rabbit have been considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. There was no evidence to suggest that dichlormid was a developmental toxicant in either the rat or rabbit. It was also observed that there was no risk below maternally toxic doses as the NOAEL for developmental effects in the rat was 40 mg/kg/day, compared to the maternal NOAEL of 10 mg/kg/day; and in the rabbit study, the NOAEL for both maternal and developmental effects was 30 mg/kg/day. EPA has previously concluded, that the additional 10x safety factor should be retained due to the qualitative evidence of increased susceptibility demonstrated following *in utero* exposure in the prenatal developmental toxicity in rabbits and an incomplete toxicity data base. It should be noted that in the rabbit developmental toxicity study, the LOAEL for both maternal and developmental toxicity was 180 mg/kg/day. The effects on resorptions at this dose were observed in dams which showed an average weight loss (–3.8g) during the treatment period compared with an average weight gain in controls of 272g. Also, a multigeneration study has now been completed, and therefore, Dow AgroSciences LLC believes that an additional safety factor should no longer be necessary.

Additional uncertainty factors are not warranted for the safety of infants and children as reliable data support the appropriate use of a 100-fold uncertainty factor margin of exposure (MOE) to account for interspecies extrapolation and intraspecies variability. However, using the conservative exposure assumptions above for the determination in the

general population, it is concluded that the percentage of cPAD that will be utilized by aggregate exposure to dichlormid is 9.6% for children aged 1–6 years (the group at highest risk). Therefore, based on the completeness and reliability of the toxicity data base and the conservative exposure assessment, Dow AgroSciences LLC, concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to dichlormid residues.

F. International Tolerances

There is neither a codex proposal nor Canadian or Mexican limits for residues of dichlormid in corn commodities.

[FR Doc. 03–29188 Filed 11–20–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7590–2]

Underground Injection Control Program: Hazardous Waste Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection, Rubicon, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on Rubicon Inc., no migration petition reissuance.

SUMMARY: Notice is hereby given that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to Rubicon, Inc., for five Class I injection wells located at Geismar, Louisiana. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision is for injection Well Nos. 1, 2, 3, 4, and 5, all located at the Rubicon facility in Geismar, Louisiana. As required by 40 CFR 148.22(b) and 124.10, a public notice was issued September 12, 2003.

The public comment period closed on November 4, 2003. No comments were received. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of November 12, 2003.

ADDRESSES: Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Quality Protection Division, Source Water Protection Branch (6WQ–S), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Rafael Casanova, Acting Chief, Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–7165.

Oscar Ramirez Jr.,

Acting Director, Water Quality Protection Division (6WQ).

[FR Doc. 03–29180 Filed 11–20–03; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 5, 2003.

A. Federal Reserve Bank of Kansas City (James Hunter, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *John H. Bergmeyer*, Lincoln, Nebraska; to acquire control of SSB Management LLC, and thereby indirectly acquire Wilber Co., and its subsidiary, Saline State Bank, both of Wilber, Nebraska.

Board of Governors of the Federal Reserve System, November 17, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–29064 Filed 11–20–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 15, 2003.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. *Alabama National Bancorporation*, Birmingham, Alabama; to merge with Indian River Banking Company, and thereby indirectly acquire Indian River National Bank, both of Vero Beach, Florida.

B. Federal Reserve Bank of Kansas City (James Hunter, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *SSB Management LLC*, Wilber, Nebraska; to acquire an additional 27.78 percent, for a total of 50 percent, of the voting shares of Wilber Co., Wilber, Nebraska, and thereby indirectly acquire additional shares of Saline State Bank, Wilber, Nebraska.

C. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. *Five Star Bancorp*, Rocklin, California; to acquire 100 percent of Five Star Bank Natomas, Sacramento, California.

Board of Governors of the Federal Reserve System, November 17, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03-29063 Filed 11-20-03; 8:45 am]

BILLING CODE 6210-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice; correction.

SUMMARY: The Office of the Secretary, HHS, published a notice in the **Federal Register** of November 13, 2003, concerning a finding of scientific misconduct regarding Dr. Smith. The document contained an omission and a typographical error.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 301-443-5330.

Correction

In the **Federal Register** of November 13, 2003, in FR Doc. 03-28377, on page 64351 in the second column following line 11, insert the following text to read:

VII. Dissertation Table 11 entitled "EPR determined inter-nitroxide distances for NSAID and arachidonate complexes of PGH-2 MBD mutants;"

and change the previously-printed Roman number VII to Roman number VIII.

Dated: November 14, 2003.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. 03-29066 Filed 11-20-03; 8:45 am]

BILLING CODE 4150-31-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS-382, CMS-10003 and CMS-10098]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* ESRD Beneficiary Selection and Supporting Regulations in 42 CFR 414.330; *Form No.:* CMS-382 (OMB# 0938-0372); *Use:* ESRD facilities have each new home dialysis patient select one of two methods to handle Medicare reimbursement. The intermediaries pay for the beneficiaries selecting Method I and the carriers pay for the beneficiaries selecting Method II. This system was developed to avoid duplicate billing by both intermediaries and carriers; *Frequency:* Other: One-time only; *Affected Public:* Individuals or households, business or other for-profit, not-for-profit institutions; *Number of Respondents:* 7,400; *Total Annual Responses:* 7,400; *Total Annual Hours:* 617.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare+Choice Appeals Notices, "Notice of Denial of Medical Coverage",

"Notice of Denial Payment"; *Form No.:* CMS-10003 (OMB# 0938-0829); *Use:* Section 1852(g)(1)(B) requires M+C organizations to provide determinations to deny coverage (i.e., medical services or payment) in writing and include a statement in understandable language of the reasons for the denial and a description of the reconsideration and appeals processes.

These notices fulfill the statutory requirement.; *Frequency:* On occasion and other: distribution; *Affected Public:* Individuals or households, business or other for-profit, not-for-profit institutions; *Number of Respondents:* 71,411; *Total Annual Responses:* 71,411; *Total Annual Hours:* 78,290.

3. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* 1-800-Medicare Beneficiary Satisfaction Survey; *Form No.:* CMS-10098 (OMB# 0938-NEW); *Use:* The Beneficiary Satisfaction survey is performed to insure that the CMS 1-800-Medicare helpline contractor is delivering satisfactory service to the Medicare beneficiaries. It gathers data on several helpline operations such as print fulfillment and Web site tools hosted on <http://www.medicare.gov>. Respondents to the survey are Medicare beneficiaries that have contacted the 1-800-Medicare number within the past week for benefits and services information.; *Frequency:* On occasion; *Affected Public:* Individuals or households; *Number of Respondents:* 14,400; *Total Annual Responses:* 14,400; *Total Annual Hours:* 1,200.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at <http://cms.hhs.gov/regulations/pr/default.asp>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances, Attention: Melissa Musotto, Room C5-14-03, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: November 13, 2003.

Julie Brown,

CMS Reports Clearance Officer, Office of Strategic Operations and Strategic Affairs, Division of Regulations Development and Issuances.

[FR Doc. 03-29138 Filed 11-20-03; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval of Rhode Island State Plan Amendment 02-009

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing to be held on January 7, 2004, at 10 a.m., Government Center, JFK Federal Building, Viewstation 2350, Boston, Massachusetts 02203-0003.

Closing Date: Requests to participate in the hearing as a party must be received by the presiding officer by December 8, 2003.

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes, Presiding Officer, CMS, Lord Baltimore Drive, Mail Stop LB-23-20, Baltimore, Maryland 21244, Telephone: (410) 786-2055.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider CMS' decision to disapprove Rhode Island State Plan Amendment (SPA) 02-009, submitted on September 28, 2002. The amendment would provide coverage for targeted case management services to children age 21 and under who are receiving such services from the Rhode Island Department of Children, Youth, and Families.

The issues are whether CMS properly found that SPA 02-009 is not consistent with Medicaid requirements because the proposed amendment: (1) Duplicates coverage of services that are integral components of the Federal-state child welfare programs; and (2) fails to include a payment methodology for the proposed services and thereby does not comprehensively describe the plan and provide sufficient information to determine compliance with applicable statutory and regulatory requirements.

Under section 1902(a) of the Social Security Act (the Act), states must submit plans "for medical assistance." Medical assistance is defined in sections

1905(a) and 1905(a)(19) of the Act, and includes targeted case management authorized by section 1915(g)(2) of the Act. In authorizing coverage of case management services, Congress specifically indicated that coverage for case management services must not duplicate payments made to public agencies or private entities under other program authorities for the same purpose. Congress provided an exception, in section 8435 of the Technical and Miscellaneous Revenue Act of 1988, Public Law 100-647, when the state is required to provide such services under state law, or is or was otherwise paying for the services using non-Federal funds. The case management services proposed in this SPA, however, do not come within this exception because they are provided through a Federal-state program rather than a non-Federal program operated under state law. Specifically, case management comprises an integral part of the Federal child welfare program.

At issue is whether the activities proposed under this SPA as case management services were integral and inseparable to fulfillment of a state's responsibilities under title IV of the Act.

Under title IV-B of the Act, section 422(b)(2) expressly requires that states must "provide for coordination between the services provided for children under the [state welfare] plan and the services and assistance provided under title XX, under the state program funded under part A (Title IV-A)-under the state plan approved under part E (Title IV-E) and under other state programs having a relationship to the program under this subpart." The implementing regulations specify that services be organized and "linked to a wide variety of supports and services which can be crucial to meeting families' and children's needs, for example, housing, substance abuse treatment, mental health, education, job training, child care, and informal support networks." (45 CFR section 1355.25(f))

In addition, 45 CFR section 1357.10(c)(6) requires the Child and Family Services Plan, defined at 45 CFR section 1357.10(c) as "the document, developed through joint planning, which describes the publicly-funded state child and family continuum," to include a broad spectrum of services, including foster care and child welfare services. Even though the activities in question may not always have been explicitly labeled as case management when performed under the State's title IV responsibilities, the State has provided no evidence that the activities are not the same.

Also at issue is whether SPA 02-009 comprehensively described the State program and contained sufficient information to determine whether it complied with Federal law. In the review process, CMS asked the State to submit an associated amendment to Attachment 4.19B of the State plan to describe the payment methodology that Rhode Island would use to make payments for the proposed services in accordance with the requirements of section 1902(a)(30)(A) of the Act and 42 CFR 430.10. The State did not submit the payment methodology for the proposed services. CMS concluded that without any payment methodology for the proposed services, SPA 02-009 did not comprehensively describe the State's proposed Medicaid program and did not contain sufficient information for CMS to determine that the proposed coverage was in compliance with applicable statutory and regulatory requirements.

Based on the reasoning set forth above, and after consultation with the Secretary as required under 42 CFR section 430.15(c)(2), CMS disapproved Rhode Island SPA 02-009 on August 14, 2003.

Section 1116 of the Act and 42 CFR, part 430 establishes Department procedures that provide an administrative hearing for reconsideration of a disapproval of a state plan or plan amendment. CMS is required to publish a copy of the notice to a state Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR section 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The notice to Rhode Island announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Ms. Jane A. Hayward, Director
Department of Human Services
600 New London Avenue
Cranston, RI 02920

Dear Ms. Hayward:

I am responding to your request for reconsideration of Rhode Island State Plan Amendment (SPA) 02-009. Rhode Island submitted SPA 02-009 on September 28, 2002. In this amendment, Rhode Island proposed to provide coverage for targeted case management services to children age 21 and under who are receiving such services from the Rhode Island Department of Children, Youth, and Families.

The issues are whether the Centers for Medicare & Medicaid Services (CMS) properly found that SPA 02-009 is not consistent with Medicaid requirements because the proposed amendment: (1) duplicates coverage of services that are integral components of the Federal-state child welfare programs; and (2) fails to include a payment methodology for the proposed services and thereby does not comprehensively describe the plan and provide sufficient information to determine compliance with applicable statutory and regulatory requirements.

Under section 1902(a) of the Social Security Act (the Act), states must submit plans "for medical assistance." Medical assistance is defined in section 1905(a) and 1905(a)(19) of the Act, and includes targeted case management authorized by section 1915(g)(2) of the Act. In authorizing coverage of case management services, Congress specifically indicated that coverage for case management services must not duplicate payments made to public agencies or private entities under other program authorities for the same purpose. Congress provided an exception, in section 8435 of the Technical and Miscellaneous Revenue Act of 1988, Public Law 100-647, when the state is required to provide such services under state law, or is or was otherwise paying for the services using non-Federal funds. The case management services proposed in this SPA, however, do not come within this exception because they are provided through a Federal-state program rather than a non-Federal program operated under state law. Specifically, case management comprises an integral part of the Federal child welfare program.

At issue is whether the activities proposed under this SPA as case management services were integral and inseparable to fulfillment of a state's responsibilities under title IV of the Act.

Under title IV-B of the Act, section 422(b)(2) expressly requires that states must "provide for coordination between the services provided for children under the [state welfare] plan and the services and assistance provided under title XX, under the state program funded under part A (Title IV-A), under the state plan approved under part E (Title IV-E), and under other state programs having a relationship to the program under this subpart." The implementing regulations specify that services be organized and "linked to a wide variety of supports and services which can be crucial to meeting families' and children's needs, for example, housing, substance abuse treatment, mental health, education, job training, child care, and informal support networks." (45 CFR section 1355.25(f))

In addition, 45 CFR 1357.10(c)(6) requires the Child and Family Services Plan, defined at 45 CFR section 1357.10(c) as "the document, developed through joint planning, which describes the publicly-funded state child and family continuum," to include a broad spectrum of services, including foster care and child welfare services. Even though the activities in question may not always have been explicitly labeled as case management when performed under the State's title IV responsibilities, the State has provided no evidence that the activities are not the same.

Also at issue is whether SPA 02-009 comprehensively described the State program and contained sufficient information to determine whether it complied with Federal law. In the review process, CMS asked the State to submit an associated amendment to Attachment 4.19B of the State plan to describe the payment methodology that Rhode Island would use to make payments for the proposed services, in accordance with requirements set forth in section 1902(a)(30)(A) of the Act and 42 CFR 430.10. The State did not submit any payment methodology for the proposed services. CMS concluded that without any payment methodology for the proposed services, SPA 02-009 did not comprehensively describe the State's proposed Medicaid program, and did not contain sufficient information for CMS to determine that the proposed coverage was in compliance with applicable statutory and regulatory requirements.

I am scheduling a hearing on your request for reconsideration to be held on January 7, 2004, at 10 a.m., Government Center, JFK Federal Building, Viewstation 2320, Boston, Massachusetts 02203-0003. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. Ms. Scully-Hayes may be reached at (410) 786-2055.

Sincerely,
Thomas A. Scully

Section 1116 of the Social Security Act (42 U.S.C. 1316); 42 CFR 430.18) (Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 03-29143 Filed 11-20-03; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N-0085]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Environmental Impact Considerations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Environmental Impact Considerations" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen Nelson, Office of Management Programs (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 26, 2003 (68 FR 38063), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910-0322. The approval expires on September 30, 2006. A copy of the supporting statement for this information collection is available on the Internet at <http://www.fda.gov/ohrms/dockets>.

Dated: November 14, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03-29068 Filed 11-20-03; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N-0084]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Electronic Records; Electronic Signatures

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Electronic Records; Electronic Signatures" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen Nelson, Office of Management Programs (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 23, 2003 (68 FR 43531), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910-0303. The approval expires on May 31, 2005. A copy of the supporting statement for this information collection is available on the Internet at <http://www.fda.gov/ohrms/dockets>.

Dated: November 14, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03-29071 Filed 11-20-03; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2000D-1598]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Suggested Documentation for Substantiating Whether Foods Have or Have Not Been Developed Using Bioengineering; Withdrawal

AGENCY: Food and Drug Administration, HHS.

ACTION: Withdrawal of notice.

SUMMARY: This document withdraws a Food and Drug Administration (FDA) notice that published in the **Federal Register** of October 31, 2003 (68 FR 62086).

DATES: This notice is withdrawn on November 21, 2003.

FOR FURTHER INFORMATION CONTACT: Catalina Ferre-Hockensmith, Center for Food Safety and Applied Nutrition

(HFS-820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301-436-2371.

SUPPLEMENTARY INFORMATION: FDA published a notice in the **Federal Register** of October 31, 2003, informing interested parties that the proposed collection of information entitled "Suggested Documentation for Substantiating Whether Foods Have or Have Not Been Developed Using Bioengineering" had been submitted to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1995. However, this request for comments was issued prematurely. Thus, FDA is withdrawing the proposed collection of information at this time. FDA will reissue the request for comments when appropriate.

Dated: November 14, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03-29074 Filed 11-20-03; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2002D-0231 and 1993D-0139]

International Conference on Harmonisation; Stability Data Package for Registration Applications in Climatic Zones III and IV; Stability Testing of New Drug Substances and Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of two guidances prepared under the auspices of the International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The first is a guidance entitled "Q1F Stability Data Package for Registration Applications in Climatic Zones III and IV" (the Q1F guidance). The second is a revised guidance entitled "Q1A(R2) Stability Testing of New Drug Substances and Products" (the Q1A guidance). The Q1F guidance, which is an annex to the Q1A guidance, defines an approach for broader use of the Q1A guidance for territories in climatic zones III and IV. The revised Q1A guidance incorporates relevant Q1F recommendations.

DATES: The guidance is effective November 21, 2003. Submit written comments at any time.

ADDRESSES: Submit written comments on the guidances to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>. Submit written requests for single copies of the guidances to the Division of Drug Information (HFD-240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; or the Office of Communication, Training and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-3844, FAX: 888-CBERFAX. Send two self-addressed adhesive labels to assist the office in processing your requests. Requests and comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance documents.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidances: Chi-wan Chen, Center for Drug Evaluation and Research (HFD-830), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-2001; or Andrew Shrake, Center for Biologics Evaluation and Research (HFM-345), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20052-1148, 301-402-4635.

Regarding the ICH: Michelle Limoli, Office of International Programs (HFG-1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-0864.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonisation of regulatory requirements. FDA has participated in many meetings designed to enhance harmonisation and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonisation initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonisation of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization (WHO), Health Canada's Health Products and Food Branch, and the European Free Trade Area.

In the **Federal Register** of June 14, 2002 (67 FR 40951), FDA published a notice announcing the availability of a draft tripartite guidance entitled "Q1F Stability Data Package for Registration in Climatic Zones III and IV." In the same notice, the agency announced that when the Q1F guidance was finalized, the Q1A guidance, originally published in the **Federal Register** of September 22, 1994 (59 FR 48754), and revised (as Q1A(R)) in 2001 (66 FR 56332, November 7, 2001), would be revised to incorporate the relevant information from the Q1F guidance. The notice gave interested persons an opportunity to submit comments by August 20, 2002.

After consideration of the comments received and revisions to the guidance, a final draft of the Q1F guidance was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies on February 6, 2003. On the same date, the ICH Steering Committee endorsed the revised Q1A guidance incorporating the Q1F recommendations.

II. The Guidances

There are four climatic zones in the world that are distinguished by their characteristic prevalent annual climatic conditions, based on the concept described by P. Schumacher (*Pharmazeutische Zeitung*, 119:321–

324, 1974). The Q1A guidance defines the stability data package for the ICH tripartite regions (the EU, Japan, and the United States), which are in climatic zones I or II. The WHO has published a guideline on "Stability testing of pharmaceutical products containing well established drug substances in conventional dosage forms" (WHO technical report series, no. 863, annex 5), updated in the "Report of the thirty-seventh meeting of the WHO Expert Committee on Specifications for Pharmaceutical Preparations," Geneva, October 22–26, 2001. The WHO guideline defines stability testing recommendations, including storage conditions, for all four climatic zones.

A. The Q1F Guidance

The Q1F guidance establishes harmonized global stability testing recommendations based on the Q1A guidance and the WHO guideline and defines an approach for broader use of Q1A recommendations for territories in climatic zones III and IV. For territories in climatic zones III and IV, the data package as described in the Q1A guidance can be considered applicable except for certain storage conditions. The Q1F guidance recommends the "room temperature" long-term storage conditions and other considerations as part of the data package considered sufficient for a registration application for drug substances and products intended to be marketed in climatic zones III and IV.

B. The Revised Q1A Guidance

In concert with the Q1F recommendations, the intermediate storage condition for the "general case" in the Q1A guidance has been changed from 30 °C ± 2 °C/60 percent relative humidity (RH) ± 5 percent RH. The new intermediate storage condition for the general case is now 30 °C ± 2 °C/65 percent RH ± 5 percent RH. This change, from 60 percent RH to 65 percent RH, is intended to harmonize the intermediate storage condition for zones I and II with the long-term condition for zones III and IV. Furthermore, this modified intermediate condition can be used as an alternative long-term condition to 25 °C ± 2 °C/60 percent RH ± 5 percent RH for zones I and II.

These guidance documents represent the agency's current thinking on this topic. They do not create or confer any rights for or on any person and do not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

III. Comments

Interested persons may, at any time, submit to the Division of Dockets Management (see **ADDRESSES**) written comments on the guidances. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidances and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the documents at <http://www.fda.gov/ohrms/dockets/default.htm>, <http://www.fda.gov/cder/guidance/index.htm>, or <http://www.fda.gov/cber/publications.htm>.

Dated: November 14, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–29103 Filed 11–20–03; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Blood Products 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: Blood Products 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 December 11, 2003, from 8 a.m. to 6:30 p.m.; and on December 12, 2003, from 8 a.m. to 3 p.m.

Location: Hilton DC North—Gaithersburg, Grand Ballrooms A, B, C, and D, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Linda A. Smallwood, Center for Biologics Evaluation and Research (HFM-302), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301-827-3514, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 19516. Please call the Information Line

for up-to-date information on this meeting.

Agenda: On December 11, 2003, the committee will hear presentations and discuss and provide recommendations on these topics: The American Association for Blood Banks (AABB) abbreviated donor questionnaire; and blood donor deferral for exposure to Leishmaniasis. In the afternoon, the committee will hear an update on the West Nile Virus (WNV) epidemic and donor testing in 2003 including updates on WNV testing under investigational new drug applications and plans for 2004. On December 12, 2003, the committee will hear updates on these topics: The Medical Device User Fee and Modernization Act of 2002 (MDUFMA), the use of secure e-mail, a summary of the factor VIII inhibitor workshop, platelet testing and evaluation guidance, and freezing and storage temperatures for source plasma (-25 °C and -30 °C). The committee will also hear presentations and discuss and provide recommendations on the review of plasma collection nomograms.

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 November 21, 2003. Oral presentations from the public will be scheduled between approximately 10:30 a.m. and 11 a.m., 2 p.m. and 2:30 p.m., and 5:30 p.m. and 5:45 p.m. on December 11, 2003; and between approximately 9:30 a.m. and 10:15 a.m., and 12 noon and 12:30 p.m. on December 12, 2003. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 21, 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 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 Linda A. Smallwood, or Pearline K. Muckelvene at 301-827-1281 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: November 14, 2003.

William K. Hubbard,

Associate Commissioner for Policy and Planning.

[FR Doc. 03-29075 Filed 11-20-03; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Orthopaedic and Rehabilitation 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). At least one portion of the meeting will be closed to the public.

Name of Committee: Orthopaedic and Rehabilitation 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 December 11, 2003, from 8:30 a.m. to 6 p.m.

Location: Holiday Inn, Walker/Whetstone Rooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Janet L. Scudiero, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-594-1184, ext. 176, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12521. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on the reclassification of the intervertebral body fusion device (cage) intended for spinal fusion procedures in skeletally mature adults with degenerative disc disease at one or two levels from C2-C7 and L2-S1 using autogenous bone graft. The device does not include combination products, such as the intervertebral body fusion device using morphogenic proteins and scaffolds. Background information for the topic, including the agenda and questions for the committee, will be available to the public no later than 1 business day before the meeting on the Internet at <http://www.fda.gov/cdrh/panelmtg.html>.

Procedure: On December 11, 2003, from 9 a.m. to 6 p.m., the meeting is open to the public. 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 December 1, 2003. Oral presentations from the public will be scheduled between approximately 11:45 a.m. and 12:45 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before December 1, 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.

Closed Committee Deliberations: On December 11, 2003, from 8:30 a.m. to 9 a.m., the meeting will be closed to permit FDA to present to the committee trade secret and/or confidential commercial information regarding pending and future device issues. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

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 Shirley Meeks, Conference Management Staff, at 301-594-1283, ext. 105, 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: November 14, 2003.

William K. Hubbard,

Associate Commissioner for Policy and Planning.

[FR Doc. 03-29070 Filed 11-20-03; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines; Notice of Meeting

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following meeting.

Name: Advisory Commission on Childhood Vaccines (ACCV).

Date and Time: December 3, 2003, 9 a.m.—12 noon, EST.

Place: Audio Conference Call.

The full ACCV will meet on Wednesday, December 3, from 9 a.m. to 12 noon. The meeting will be open to the public. The public can join the meeting by dialing 1-888-820-8951 on December 3 and providing the following information:

Leader's Name: Thomas E. Balbier, Jr.

Password: ACCV.

Agenda: The agenda items for December 3 will include, but are not limited to: A presentation on the Institute of Medicine's Immunization Safety Review Committee reports, "Vaccinations and Sudden Unexpected Death in Infancy" and "Influenza Vaccines and Neurological Complications"; a report of the results of the 2002 Advisory Committee Engagement Survey; and updates from the Division of Vaccine Injury Compensation, the Department of Justice, and the National Vaccine Program Office. Agenda items are subject to change as priorities dictate.

Public Comments: Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to: Ms. Cheryl Lee, Principal Staff Liaison, Division of Vaccine Injury Compensation, Office of Special Programs, Health Resources and Services Administration, Room 16C-17, 5600 Fishers Lane, Rockville, MD 20857 or by e-mail at clee@hrsa.gov. Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Division of Vaccine Injury Compensation will notify each presenter by mail or telephone of his/her assigned presentation time. Persons who do not file an advance request for a presentation, but desire to make an oral statement, may announce it at the time of the comment period on the audio conference call. These persons will be allocated time as time permits.

For Further Information Contact: Anyone requiring information regarding the ACCV should contact Ms. Cheryl Lee, Principal Staff Liaison, Division of Vaccine Injury Compensation, Office of Special Programs, Health Resources and Services Administration, Room 16C-17, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 443-2124 or e-mail: clee@hrsa.gov.

Dated: November 12, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03-29067 Filed 11-20-03; 8:45 am]

BILLING CODE 4165-15-P

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, Knowledge and Opinions Regarding Organ Donation.

Date: December 8, 2003.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6707 Democracy Blvd., Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Neal A. Musto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 751, 6707 Democracy Boulevard, Bethesda, MD 20892, (301) 594-7798, muston@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: November 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03-29091 Filed 11-20-03; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 Neurological Disorders and Stroke Special Emphasis Panel, Neuroscience for Undergraduates.

Date: November 20, 2003.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, DHHS/NIH/NINDS/DER/SRB, 6001 Executive Boulevard; MSC 9529, Neuroscience Center; Room 3203, Bethesda, MD 20892-9529, (301) 496-5388, wiethorp@ninds.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. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: November 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03-29092 Filed 11-20-03; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Dental and Craniofacial Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Dental & Craniofacial Research, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Dental and Craniofacial Research, Review of Craniofacial Dev. Biology & Regeneration Br., Matrix Metalloproteinase Unit.

Date: December 3–5, 2003.

Open: December 3, 2003, 6 p.m. to 8 p.m.

Agenda: Committee Business.

Place: National Institutes of Health, Building 29, Conference Room 117, Bethesda, MD 20892.

Open: December 4, 2003, 9 a.m. to 11:45 a.m.

Agenda: Lab Presentations.

Place: National Institutes of Health, Building 29, Conference Room 117, Bethesda, MD 20892.

Closed: December 4, 2003, 12 p.m. to 1:45 p.m.

Agenda: To review and evaluate personal qualifications and performance and competence of individual investigators.

Place: National Institutes of Health, Building 29, Conference Room 117, Bethesda, MD 20892.

Open: December 4, 2003, 1:50 p.m. to 3:40 p.m.

Agenda: Lab Presentations.

Place: National Institutes of Health, Building 29, Conference Room 117, Bethesda, MD 20892.

Closed: December 4, 2003, 4 p.m. to 6 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 29, Conference Room 117, Bethesda, MD 20892.

Open: December 5, 2003, 8:30 a.m. to 11:45 a.m.

Agenda: Tour of Facilities, Poster Presentations.

Place: National Institutes of Health, Building 29, Conference Room 117, Bethesda, MD 20892.

Closed: December 5, 2003, 12 p.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 29, Conference Room 117, Bethesda, MD 20892.

Contact Person: J. Ricardo Martinez, MD, MPH, Assoc. Director for Program Development, Office of the Director, National Institute of Dental & Craniofacial Research, 31 Center Drive, Bldg. 31, Rm 5B55, Bethesda, MD 20892, (301) 451-6229.

Information is also available on the Institute's/Center's home page: <http://www.nidcr.nih.gov/discover/bscmtgs.htm>, where an agenda and any additional information to the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institute of Health, HHS)

Dated: November 17, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03-29093 Filed 11-20-03; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Homeland Security Advisory Council

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Homeland Security Advisory Council (HSAC) will hold its next meeting in Miami, FL on December 9, 2003. The HSAC will meet for purposes of: (1) Welcoming and swearing in new members; (2) addressing current HSAC projects, including continued discussions on the proposed Homeland Security award and the Department of Homeland Security (DHS) Lexicon project; (3) touring DHS facilities; (4) receiving briefings from DHS staff on Departmental initiatives; and (5) holding roundtable discussions with and among HSAC members. This

meeting will be partially closed; the open portions of the meeting for purposes of (1) and (2) above will be held in the Radisson Miami Hotel Symphony Ballroom from 9:30 a.m. to 12:25 p.m. The closed portions of the meeting, for purposes of (4) and (5) above will be held at the Radisson Miami Hotel from 8 a.m. to 9:20 a.m. and from 12:30 p.m. to 1:30 p.m. Due to transportation and building capacity limitations, as well as security concerns, the public will be unable to accompany the HSAC on the DHS facilities tour.

Public Attendance: Members of the public will be registered to attend the public session on a first-come, first-served basis per the procedures that follow. Security requires that any member of the public who wishes to attend the public session provide his or her name, social security number, and date of birth no later than 5 p.m. EST, Monday December 1, 2003. Please provide the required information to Mike Miron or Jeff Gaynor of the HSAC staff, via email at HSAC@dhs.gov, or via phone at (202) 692-4283. Persons with disabilities who require special assistance should indicate so in their admittance request. Photo identification will be required for entry into the public session, and everyone in attendance must be present and seated by 9:15 a.m.

Basis for Closure: In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92-463, as amended (5 U.S.C. App. 2), the Secretary has issued a determination that portions of this HSAC meeting will concern matters sensitive to homeland security within the meaning of 5 U.S.C. 552b(c)(7) and (c)(9)(B) and that, accordingly, these portions of the meeting will be closed to the public.

Public Comments: Members of the public who wish to file a written statement with the HSAC may do so by mail to Mike Miron at the following address: Homeland Security Advisory Council, Department of Homeland Security, Washington DC 20528. Comments may also be sent via email to HSAC@dhs.gov or via fax at (202) 772-9718.

Dated: November 17, 2003.

Tom Ridge,

Secretary of Homeland Security.

[FR Doc. 03-29097 Filed 11-20-03; 8:45 am]

BILLING CODE 4410-10-P

**DEPARTMENT OF HOMELAND
SECURITY**
Coast Guard
[USCG 2003-15884]
**Information Collection Under Review
by the Office of Management and
Budget (OMB): 1625-0056, Labeling
Required in 33 CFR Parts 181 and 183
and 46 CFR 25.10-3**
AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded one Information Collection Report (ICR), on Labeling Required in 33 CFR Parts 181 and 183 and 46 CFR 25.10-3, to the Office of Information and Regulatory Affairs (OIRA) of the OMB for review and comment. Our ICR describes the information we seek to collect from the public. Review and comment by OIRA ensure that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before December 22, 2003.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG 2003-15884] more than once, please submit them by only one of the following means:

(1)(a) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. (b) By mail to OIRA, 725 17th Street, NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard. Caution: Because of recent delays in the delivery of mail, your comments may reach the Facility more quickly if you choose one of the means described below.

(2)(a) By delivery to room PL-401 at the address given in paragraph (1)(a) above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329. (b) By delivery to OIRA, at the address given in paragraph (1)(b) above, to the attention of the Desk Officer for the Coast Guard.

(3) By fax to (a) the Facility at 202-493-2251 and (b) OIRA at 202-395-5806, or e-mail to OIRA at oira_docket@omb.eop.gov attention: Desk Officer for the Coast Guard.

(4)(a) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>. (b) OIRA does not have a Web site on which you can post your comments.

(5) Electronically through Federal eRule Portal: <http://www.regulations.gov>.

The Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 (Plaza level), 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

Copies of the complete ICR are available for inspection and copying in public dockets. They are available in docket USCG 2003-15884 of the Docket Management Facility between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays; for inspection and printing on the internet at <http://dms.dot.gov>; and for inspection from the Commandant (CG-612), U.S. Coast Guard, room 6106, 2100 Second Street, SW., Washington, DC, between 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202-267-2326, for questions on this document; Andrea M. Jenkins, Program Manager, U.S. Department of Transportation, 202-366-0271, for questions on the docket.

SUPPLEMENTARY INFORMATION:
Public Participation and Request for Comments

We encourage you to participate in this request for comment by submitting comments and related materials. We will post all comments received, without change, to <http://dms.dot.gov>, and they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's "Privacy Act" below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG 2003-15884], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by

11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://dms.dot.gov> at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 [65 FR 19477], or you may visit <http://dms.dot.gov>.

Regulatory History

This request constitutes the 30-day notice required by OIRA. The Coast Guard has already published [68 FR 49492 (August 18, 2003)] the 60-day notice required by OIRA. That notice elicited no comments.

Request for Comments

The Coast Guard invites comments on the proposed collection of information to determine whether the collection is necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collection; (2) the accuracy of the Department's estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collection; and (4) ways to minimize the burden of collection on respondents, including the use of automated collection techniques or other forms of information technology.

Comments, to DMS or OIRA, must contain the OMB Control Number of the ICR addressed. Comments to DMS must contain the docket number of this request, USCG 2003-15884. Comments to OIRA are best assured of having their full effect if OIRA receives them 30 or fewer days after the publication of this request.

Information Collection Request

Title: Labeling Required in 33 CFR Parts 181 and 183 and 46 CFR 25.10-3.

OMB Control Number: 1625-0056.

Type of Request: Extension of a currently approved collection.

Affected Public: Manufacturers of recreational boats, uninspected commercial vessels, and associated equipment.

Form: This collection of information does not require the public to fill out forms, but does require the submittal of information to the Coast Guard in written format.

Abstract: The rules and safety standards contain information collections that require manufacturers of boats, uninspected commercial vessels, and associated equipment; importers; and the boating public to apply for serial numbers and to display various labels evidencing compliance.

Annual Estimated Burden Hours: The estimated burden is 385,408 hours a year.

Dated: November 14, 2003.

Clifford I. Pearson,

Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 03-29145 Filed 11-20-03; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4491-N-15]

Notice of Availability of a Draft Environmental Impact Statement for the Greenbridge Redevelopment Project, King County, WA

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD provides notice to the public, agencies, and Indian tribes on behalf of the King County Department of Development and Environmental Services (DDES) acting as the Responsible Entity for compliance with the National Environmental Policy Act (NEPA) in accordance with 24 CFR 58.4, and jointly the DDES and King County Housing Authority (KCHA), acting under their authority as lead agencies in accordance with the State Environmental Policy Act (SEPA) (RCW 43.21), that a Draft Environmental Impact Statement (Draft EIS) for the redevelopment of Park Lake Homes public housing community (Greenbridge) will be available for review and comment on November 21,

2003. This notice is given in accordance with the Council on Environmental Quality regulations at 40 CFR parts 1500-1508.

Notice is also given that the DDES as Responsible Entity decided to combine the National Historic Preservation Act, section 106 process with the NEPA EIS in accordance with 36 CFR 800.8. Comments are also being requested on the section 106 information presented in the Draft EIS as well as on the section 106 process itself.

DATES: Comments Due Date: Comments must be received on or before January 5, 2004. Written comments on the Draft EIS should be addressed to the individual named below under the heading **FOR FURTHER INFORMATION CONTACT**. A public comment meeting will be held during the comment period to ensure public participation. The public meeting will be held on December 17, 2003, from 5 p.m. to 8 p.m. (child care and language translation services will be available at the meeting). The public comment meeting will be held at the Jim Wiley Community Center, 9800 8th Avenue, SW., King County, WA.

FOR FURTHER INFORMATION CONTACT: Greg Borba, Planning Supervisor, King County Department of Development and Environmental Services, 900 Oaksdale Avenue SW., Renton, WA 98055-1219, telephone number (206) 296-7118.

Copies of the Draft EIS may be purchased for the cost of reproduction. Copies are available at the King County Housing Authority's office (600 Andover Park W, Tukwila, WA). Please contact Oksana Winstead at the King County Housing Authority (206-574-1197) to make arrangements to obtain a copy. The Draft EIS can also be reviewed at the King County Housing Authority's office (600 Andover Park W.) Monday through Friday, 8 a.m. to 5 p.m., at the Park Lake Homes HOPE VI Office (206-574-1107), and at the following public libraries in King County, WA:

- Boulevard Park Library (12015 Roseberg Ave. S.);
- Burien Public Library (14700 Sixth SW.);
- Foster Public Library (7614 S. 126th);
- White Center Public Library (11220-16th SW.)
- King County Library System, Documents Branch (690 Newport Way NW., Issaquah);
- Seattle Public Library Central Library (800 Pike St.);
- Seattle Public Library Central Library, Documents Branch (800 Pike St.);
- Seattle Public Library Southwest Branch (9010-35th Ave. SW.);

- Seattle Public Library West Seattle Branch (2306-42nd Ave. SW.).

SUPPLEMENTARY INFORMATION: The King County Department of Development and Environmental Services (DDES), acting under authority of section 104(g) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(g)) and HUD's regulations at 24 CFR part 58, in cooperation with other interested agencies, has prepared a Draft EIS to analyze potential impacts of redevelopment of the Park Lake Homes public housing community (Greenbridge Redevelopment Project-Proposed Master Plan). The Draft EIS is a joint National Environmental Policy Act (NEPA) and Washington State Environmental Policy Act (SEPA) document intended to satisfy requirements of federal and state environmental statutes. HUD has allowed the assumption of its NEPA authority and NEPA lead agency responsibility by the King County (DDES) as the Responsible Entity in cooperation with the Recipient, King County Housing Authority (KCHA), as the SEPA lead agency.

Park Lake Homes is KCHA's oldest and largest public housing development. Built in 1942 to serve as temporary housing for World War II defense workers, structures have been renovated several times. The KCHA received a HOPE VI grant award from HUD in November 2001, to initiate planning for the revitalization of this public housing development.

The Proposed Master Plan includes redevelopment of the existing approximately 94-acre project site located in the White Center area of unincorporated King County, Washington. The proposed redevelopment is consistent with requirements for a mixed-use, mixed-income housing project as described in the HOPE VI grant. The project site currently contains 569 residential units, a Community Center, a maintenance shop, a Head Start School, and a secondary building containing a food bank and administrative offices. The residential units are in primarily single story duplex structures.

The plan is to replace all existing low-income housing to either within the site or elsewhere in King County, through construction of public housing units on-site and project-based Section 8 vouchers in existing or new housing complexes. Existing residents would be displaced and assisted with benefits according to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Where possible, displaced residents in good standing would be allowed to

return to the public housing units once redevelopment is complete.

Most of the current buildings on the site would be demolished in phases, unless renovation for community services use is feasible. The existing Jim Wiley Community Center building will likely be renovated. In addition, much of the existing infrastructure would be demolished, abandoned, or replaced, also in phases. The project site would be redeveloped to provide approximately 900 to 1,100 dwelling units of rental and for-sale housing, in attached and detached forms, to meet a wide range of needs. Rental housing could include public housing units (attached townhouses, over/under flats, over/under townhouses, cottages) and workforce housing (attached townhouses, over/under flats, over/under townhouses, and apartments). For sale housing could include single family detached, cottages, attached townhouses, condominium flats and condominium townhouses.

An estimated 2,235,000 square feet of net buildable area is associated with the Proposed Master Plan. Non-residential development would include an estimated 80,000–100,000 square feet of community-oriented uses. Such uses may include: a branch library, renovated community center, youth and family facilities, Head Start and child care facility, Sheriff's office, food bank, career development center and meeting/gathering space. Approximately 22,300 square feet of neighborhood-scale retail, to meet the everyday needs of residents, is also proposed. A new elementary school (White Center Heights Elementary) is presently under construction; this is an independent proposal for purposes of land use permitting and SEPA review (although the site is included within the Greenbridge Preliminary Plat). A SEPA Determination of Nonsignificance was published on September 18 and 25, 2002, for the new elementary school.

Questions may be directed to the individual named above under the above heading **FOR FURTHER INFORMATION CONTACT**.

Dated: November 7, 2003.

Roy A. Bernardi,

Assistant Secretary for Community Planning and Development.

[FR Doc. 03–29056 Filed 11–20–03; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4809–N–47]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: November 21, 2003

FOR FURTHER INFORMATION CONTACT:

Mark Johnston, department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: November 13, 2003.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 03–28833 Filed 11–20–03; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4888–N–01]

Annual Indexing of Basic Statutory Mortgage; Limits for Multifamily Housing Programs

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In accordance with section 206A of the National Housing Act, HUD has adjusted the basic statutory

mortgage limits for multifamily housing programs for calendar year 2004.

EFFECTIVE DATE: January 1, 2004.

FOR FURTHER INFORMATION CONTACT:

Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–8000, telephone (202) 708–1142 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The FHA Downpayment Simplification Act of 2002 (Pub. L. 107–326, approved December 4, 2002) amended the National Housing Act by adding a new section 206A (12 U.S.C. 1712a). Under section 206A, the following are affected:

- (1) Section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));
- (2) Section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A));
- (3) Section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I));
- (4) Section 221(d)(3)(ii)(I) (12 U.S.C. 1715l(d)(3)(ii)(I));
- (5) Section 221(d)(4)(ii)(I) (12 U.S.C. 1715l(d)(4)(ii)(I));
- (6) Section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and
- (7) Section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A)).

The dollar amounts in these sections, which are collectively referred to as the "Dollar Amounts," shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board's adjustment of the \$400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA) (Pub. L. 103–325, approved September 23, 1994). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.

HUD has been notified of the percentage change in the CPI–U used for the HOEPA adjustment and the effective date of the HOEPA adjustment. The percentage change in the CPI–U is 2.22 percent and the effective date of the HOEPA adjustment is January 1, 2004. The Dollar Amounts have been adjusted correspondingly and have an effective date of January 1, 2004.

The adjusted Dollar Amounts for calendar year 2004 are shown below:

Basic Statutory Mortgage Limits for Calendar Year 2004

Multifamily Loan Program

- Section 207—Multifamily Housing.

- Section 207 pursuant to section 223(f)—Purchase or refinance housing.
- Section 213—Cooperatives.
- Section 220—Housing in urban renewal areas.

Bedrooms	Non-Elevator	Elevator
0	\$38,869	\$44,849
1	43,055	50,230
2	51,426	61,592
3	63,386	77,140
4+	71,758	87,221

- Section 221(d)(3)—Moderate income housing.
- Section 234—Condominium housing.

Bedrooms	Non-Elevator	Elevator
0	\$42,980	\$45,232
1	49,557	51,849
2	59,766	63,049
3	76,501	81,563
4+	85,225	89,531

- Section 221(d)(4)—Moderate income housing.

Bedrooms	Non-Elevator	Elevator
0	\$38,682	\$41,783
1	43,907	47,899
2	53,072	58,243
3	66,615	75,346
4+	75,485	82,708

- Section 231—Housing for the Elderly.

Bedrooms	Non-Elevator	Elevator
0	\$36,776	\$41,783
1	41,112	47,899
2	49,094	58,243
3	59,080	75,346
4+	69,458	82,708

- Section 207—Manufactured Home Parks.
Per Space—\$11,499.

Dated: November 14, 2003.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 03-29059 Filed 11-20-03; 8:45 am]

BILLING CODE 4210-27-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4837-D-38]

Delegation of Authority to the Director of the Office of Departmental Operations and Coordination

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: The Secretary of HUD delegates to the Director of the Office of Departmental Operations and Coordination (ODOC) all authority to perform certain functions related to the requirements of the Davis-Bacon Act, the Copeland Act, the Contract Work Hours and Safety Standards Act, Reorganization Plan No. 14 of 1950, Executive Order 13202, certain housing related statutes and other authorities with respect to labor standards, and certain Department of Labor regulations.

EFFECTIVE DATE: November 9, 2003.

FOR FURTHER INFORMATION CONTACT:

Edward L. Johnson, Director, Office of Labor Relations, Office of Departmental Operations and Coordination, Department of Housing and Urban Development, 451 Seventh Street, SW., Suite 2102, Washington, DC 20410-9000, telephone (202) 708-0370. (This is not a toll-free number.) Individuals with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339. (This is a toll-free number.)

SUPPLEMENTARY INFORMATION: The Secretary is in the process of updating delegations of authority issued to officials within the Department. In this delegation, the Secretary delegates to the Director of ODOC the authority to perform certain functions related to the requirements of labor standards statutes and other authorities.

Accordingly, the Secretary delegates authority as follows:

Section A. Authority Delegated

The Secretary delegates to the Director of ODOC all authority with respect to labor standards administration and enforcement vested in, or delegated or assigned to, the Secretary under statutes and other authorities relating to labor standards, including but not limited to the Davis-Bacon Act (40 U.S.C. 3141 *et seq.*), the Copeland Act (40 U.S.C. 3145), the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*), Reorganization Plan No. 14 of 1950 (5 U.S.C. App. 1 Reorg. Plan 14), the National Housing Act (12 U.S.C. 1701 *et seq.*), Section 202 of the National Housing Act of 1959 (12 U.S.C. 1701q), the National Affordable Housing Act (42 U.S.C. 12704 *et seq.*), the United States Housing Act of 1937 (42 U.S.C. 1437j), the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*), the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4101 *et seq.*), the Hawaiian Homelands Homeownership Act of 2000 (25 U.S.C.

4221 *et seq.*), Executive Order 13202 (66 FR 11225), as amended (66 FR 18717), and certain Department of Labor regulations (29 CFR parts 1, 3, 5, 6, and 7).

The authority delegated includes the authority to determine or adopt prevailing wage rates, which is vested in the Secretary by certain statutes including, but not limited to, the United States Housing Act of 1937 (42 U.S.C. 1437j), the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4101 *et seq.*), and the Hawaiian Homelands Homeownership Act of 2000 (25 U.S.C. 4221 *et seq.*).

Section B. Authority Excepted

The authority delegated to the Director of ODOC does not include the authority to issue or waive regulations or the authority to sue and be sued.

Section C. Authority to Redelegate

The authority delegated herein by the Secretary to the Director of ODOC may be redelegated.

Section D. Authority Revoked

All prior delegations of the authority delegated herein are revoked.

Authority: Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 9, 2003.

Mel Martinez,

Secretary.

[FR Doc. 03-29057 Filed 11-20-03; 8:45 am]

BILLING CODE 4210-32-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4837-D-40]

Redelegation of Authority to the Director of the Office of Labor Relations

AGENCY: Office of Departmental Operations and Coordination, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: Published concurrently in the **Federal Register** is a delegation of authority from the Secretary of HUD to the Director of Office of Departmental Operations and Coordination (ODOC), which delegates the authority to perform certain functions related to the requirements of various labor relation and labor standards statutes and authorities. By this notice, the Director of ODOC retains and redelegates all such authority to the Director of the Office of Labor Relations (OLR).

EFFECTIVE DATE: November 10, 2003.

FOR FURTHER INFORMATION CONTACT:

Edward L. Johnson, Director, Office of Labor Relations, Office Of Departmental Operations and Coordination, Department of Housing and Urban Development, 451 Seventh Street, SW., Suite 2102, Washington, DC 20410-9000, telephone (202) 708-0370 extension 5540. (This is not a toll-free number.) Individuals with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: The Secretary is in the process of updating delegations issued to officials within the Department. In this redelegation, the Director of ODOC retains and redelegates to the Director of OLR, the authority to perform certain functions related to the requirements of certain labor standards statutes and authorities.

Accordingly, the Director of ODOC redelegates authority as follows:

Section A. Authority Redelegated

The Director of ODOC retains and redelegates to the Director of OLR all authority with respect to labor standards administration and enforcement vested in, or delegated or assigned to, the Secretary under statutes and authorities relating to labor standards, including but not limited to the Davis-Bacon Act (40 U.S.C. 3141 *et seq.*), the Copeland Act (40 U.S.C. 3145), the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*), Reorganization Plan No. 14 of 1950 (5 U.S.C. App. 1 Reorg. Plan 14), the National Housing Act (12 U.S.C. 1701 *et seq.*), Section 202 of the National Housing Act of 1959 (12 U.S.C. 1701q); the National Affordable Housing Act (42 U.S.C. 12704 *et seq.*), the United States Housing Act of 1937 (42 U.S.C. 1437j), the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*), the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4101 *et seq.*), the Hawaiian Homelands Homeownership Act of 2000 (25 U.S.C. 4221 *et seq.*), Executive Order 13202 (66 FR 11225) as amended (66 FR 18717), and certain Department of Labor regulations (29 CFR parts 1, 3, 5, 6, and 7).

The authority redelegated includes the authority to determine or adopt prevailing wage rates, which is vested in the Secretary by certain statutes, including, but not limited to, the United States Housing Act of 1937 (42 U.S.C. 1437j), the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4101 *et seq.*), and the Hawaiian Homelands Homeownership Act of 2000 (25 U.S.C. 4221 *et seq.*).

Section B. Authority to Redelegate

The authority redelegated herein may be redelegated by a written redelegation of authority.

Section C. Authority Revoked

All prior redelegations of the authority redelegated herein are revoked.

Authority: Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 10, 2003.

Frank Davis,

Director of the Office of Departmental Operations and Coordination.

[FR Doc. 03-29058 Filed 11-20-03; 8:45 am]

BILLING CODE 4210-18-P

DEPARTMENT OF THE INTERIOR**Office of Acquisition and Property Management; Agency Information Collection Activities: Renewal of OMB Approved Collection; Comment Request**

AGENCY: Office of Acquisition and Property Management (PAM), Office of the Secretary, Interior.

ACTION: Notice of planned request for renewal of the OMB approval of information collection for Private Rental Survey (OMB Control Number 1084-0033) and request for comment.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, PAM invites the public and other Federal agencies to comment on a proposal to renew the currently approved collection of information discussed below for a survey of the private sector housing rental market using forms entitled Private Rental Survey. We intend to submit this collection of information to the Office of Management and Budget (OMB) for approval. The Paperwork Reduction Act of 1995 (PRA) provides that 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.

DATES: Submit written comments by January 20, 2004.

ADDRESSES: Mail or hand carry comments to the Department of the Interior; Office of Acquisition and Property Management; Attention: Linda Tribby; Mail Stop 5512; 1849 C Street, NW., Washington, DC 20240. Comments may also be submitted electronically to linda_tribby@ios.doi.gov. Our practice is to make comments, including names and home addresses of respondents,

available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identify, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Linda Tribby, Departmental Quarters Program Manager, telephone (202) 219-0728.

SUPPLEMENTARY INFORMATION:

Title: Private Rental Survey.
OMB Control Number: 1084-0033.
Bureau Form Number: OS-2000 and OS-2001.

Abstract: Public Law 88-459 authorizes Federal agencies to provide housing for Government employees under specified circumstances. In compliance with OMB Circular A-45 (Revised), Rental and Construction of Government Quarters, a review of private rental market housing rates is required at least once every five years to ensure that the rental, utility charges, and charges for related services to occupants of Government Furnished Quarters (GFQ) are comparable to corresponding charges in the private sector. To avoid unnecessary duplication and inconsistent rental rates, PAM conducts housing surveys in support of quarters management programs for the Departments of the Interior (DOI), Agriculture, Commerce, Defense, Justice, Transportation, Treasury, Health and Human Services, and Veterans Affairs.

This collection of information provides data that helps DOI as well as other Federal agencies to manage GFQ in compliance with the requirements of OMB Circular A-45 (Revised). If the collection activity were not performed, there would be no basis for determining open market rental costs for GFQ.

Frequency of Collection: Each of 15 regions is surveyed every fourth year; this equates to four to five regions surveyed each year.

Description of Respondents:

Individual property owners and small businesses or organizations (real estate managers, appraisers, or property managers).

Estimated Annual Responses: 3,872.
 Estimated Annual Reporting and
 Recordkeeping "Hour" Burden: 767

hours. There are no recordkeeping requirements.

RESPONSE BURDEN CHART

Form No.	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response (min.)	Burden
OS-2000	3,672	1	3,672	12	734
OS-2001	200	1	200	10	33
Total	3,872		3,872		767

Estimated Annual Reporting and Recordkeeping "Non-Hour Cost" Burden: None.

Comments: We will summarize written responses to this notice and address them in our submission for OMB approval. We specifically solicit your comments on the following questions:

(a) Is the proposed collection of information necessary for us to properly perform our functions, and will it be useful?

(b) Is the estimate of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on respondents, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

PAM Information Collection Clearance Officer: Debra E. Sonderman, (202) 208-6352.

Dated: November 4, 2003.
Debra E. Sonderman,
 Director, Office of Acquisition and Property Management.
 [FR Doc. 03-28641 Filed 11-20-03; 8:45 am]
BILLING CODE 4310-RF-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.
ACTION: Notice of issuance of permits for endangered species and marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to:

U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax (703) 358-2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone (703) 358-2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in Section 2 of the Endangered Species Act of 1973, as amended.

Endangered Species

Permit number	Applicant	Receipt of application Federal Register notice	Permit issuance date
076969	Thomas J. Greek	68 FR 55989; September 29, 2003	November 5, 2003.

Endangered Marine Mammals

Permit number	Applicant	Receipt of application Federal Register notice	Permit issuance date
672624	U.S. Geological Survey.	68 FR 50804; August 22, 2003	October 31, 2003.

Dated: November 7, 2003.
Charles S. Hamilton,
 Senior Permit Biologist, Branch of Permits, Division of Management Authority.
 [FR Doc. 03-29110 Filed 11-20-03; 8:45 am]
BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species.

DATES: Written data, comments or requests must be received by December 22, 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 applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

PRT-023232

Applicant: AZA Rhinoceros Taxon Advisory Group, c/o Buffalo Zoo, Buffalo, NY

The applicant is requesting an amendment and renewal of their permit to allow for the export/re-export of biological samples taken from captive-held/captive-born Great Indian 1-horned rhinoceros (*Rhinoceros unicornis*) to the University of Basel, Basel, Switzerland, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

PRT-072462

Applicant: International Center for the Preservation of Wild Animals, d.b.a. The Wilds, Cumberland, OH

The applicant requests a permit to import one female captive-born Great Indian 1-horned rhinoceros (*Rhinoceros unicornis*) from the Toronto Zoo, Scarborough, Ontario, Canada for the purpose of enhancement of the survival of the species through captive propagation and conservation education.

PRT-079363

Applicant: Michael B. Nice, San Jose, CA

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.

Dated: November 7, 2003.

Charles S. Hamilton,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 03-29109 Filed 11-20-03; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for Expansion of a Storm Water Retention Facility in Martin County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Martin County Board of County Commissioners (Applicant) requests an incidental take permit (ITP) for a three-year term pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (U.S.C. 1531 *et seq.*), as amended (Act). The Applicant anticipates impacts to 13.5 acres of habitat occupied by the threatened Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay) incidental to the clearing of land associated with the expansion of a storm water retention facility (Project). The proposed construction would occur in sections 23 and 24, Township 40 South, Range 42 East, Martin County, Florida. A description of the mitigation and minimization measures outlined in the Applicant's Habitat Conservation Plan (HCP) to address the effects of the Project to the protected species is described further in the **SUPPLEMENTARY INFORMATION** section below.

The Service also announces the availability of an environmental assessment (EA) and HCP for the incidental take application. Copies of the EA and/or HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice also advises the public that the Service has made a preliminary determination that issuing the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of

1969 (NEPA), as amended. The Finding of No Significant Impact (FONSI) is based on information contained in the EA and HCP. The final determination will be made no sooner than 60 days from the date of this notice. This notice is provided pursuant to Section 10 of the Act and NEPA regulations (40 CFR 1506.6).

If you wish to comment, you may submit comments by any one of several methods. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the Internet to david_dell@fws.gov. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your Internet message. If you do not receive a confirmation from the Service that we have received your Internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

DATES: Written comments on the permit application, supporting documentation, EA and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before January 20, 2004.

ADDRESSES: Persons wishing to review the application, supporting documentation, EA, and HCP, may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered

Species Permits), or South Florida Ecological Services Office, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, Florida 32960-3559. Written data or comments concerning the application, supporting documentation, EA, or HCP should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Comments must be submitted in writing to be adequately considered in the Service's decision-making process. Please reference permit number TE067104-0 in such comments, or in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional Coordinator, (see **ADDRESSES** above), telephone: 404/679-7313, facsimile: 404/679-7081; or Ms. Sharon Tyson, Fish and Wildlife Biologist, South Florida Ecological Services Office (see **ADDRESSES** above), telephone: 772/562-3909, extension 324.

SUPPLEMENTARY INFORMATION: The Florida scrub-jay is geographically isolated from other subspecies of scrub-jays found in Mexico and the Western United States. The scrub-jay is found exclusively in peninsular Florida and is restricted to xeric uplands (predominately in oak dominated scrub). Urban and agricultural development have resulted in habitat loss and fragmentation which has adversely affected the distribution and numbers of scrub-jays. The total estimated population is between 7,000 and 11,000 individuals.

The decline in the number and distribution of scrub-jays in southeastern Florida has been greater than in most of regions of the State. Southeastern Florida has experienced tremendous urban growth in the past 50 years and much of the commercial and residential development has occurred on the dry soils or the Atlantic coastal ridge which historically supported scrub-jay habitat. Based on existing soils data, much of the historic and current scrub-jay habitat of coastal east Florida occurs along a narrow stretch of historic sand dunes that are situated on a north-south axis from Dade to Flagler County. Much of this area of Florida was settled early because few wetlands restricted urban and agricultural development. Due to the effects of urban and agricultural development over the past 100 years, much of the remaining scrub-jay habitat is now relatively small and isolated. What remains is largely degraded due to the exclusion of fire which is needed to maintain xeric uplands in conditions suitable for scrub-jays.

Scrub-jays using the Project site and surrounding area are considered part of a larger complex of scrub-jays that occupy xeric uplands of southeastern coastal Florida. This complex of scrub-jay families ranges from about east-central Martin County south to northeastern Palm Beach County. The majority of scrub-jays within this complex are found in Jonathan Dickinson State Park (JDSP). The Project is located on the southern boundary of JDSP. The continued survival of scrub-jays in this area is dependent on the maintenance of suitable habitat and the restoration of unsuitable habitat in northeastern Palm Beach and southeastern Martin counties.

JDSP monitors the scrub-jay population within the Park on a regular basis, but the Project site is not included in the survey area. Therefore, long-term data on use of the Project site by scrub-jays is not available. However, during the planning phase of the Project, one comprehensive scrub-jay survey and two one-day surveys were conducted to determine the extent of scrub-jay use of the Project site. Based on the results of these surveys, it was estimated that of the 13.5 acres to be impacted by the proposed Project, about 9.0 acres of occupied scrub-jay habitat will be destroyed. Land clearing in preparation for excavation will remove habitat and result in death of, or injury to, scrub-jays, incidental to the carrying out of these otherwise lawful activities. Habitat alteration associated with the proposed excavation will reduce the availability of feeding, nesting, and sheltering habitat for scrub-jays.

The Applicant proposes several actions to minimize and mitigate unavoidable impacts to scrub-jays. Minimization measures include: (1) A 31 percent decrease in the Project footprint from the originally proposed design; and (2) siting the Project footprint to avoid the most ecologically sensitive areas within the planning area, thereby avoiding impacts to a federally listed plant and focusing impacts to lower quality scrub-jay habitat. Mitigation measures include: (1) Abandonment of about 29.2 acres of unopened road right-of-way (ROW) within the Hyland Terrace subdivision plat that is now largely encompassed within JDSP, (2) transfer of fee title of about 3.3 acres of private land in the Hyland Terrace subdivision to JDSP, (3) installation of 12,941 linear feet of fencing along the southern boundary of portions of JDSP to preclude off-road vehicle use and trash dumping, and (4) restoration of about 4.3 acres of occupied scrub-jay habitat within the Project boundary.

While not proposed as mitigation, the Applicant's minimization and mitigation measures will lead to a consolidation of ownership on the southern boundary of JDSP and will likely lead to more effective land management in this area. Due to liability issues related to private inholdings, JDSP was previously unable to implement planned prescribed fire in a 183-acre management block that included the Project site and an adjacent platted, but mostly undeveloped subdivision. Without periodic fire, this management block has become increasingly unsuitable for scrub-jays. With boundary consolidation, JDSP will be able to implement short and long-term management strategies in the 183-acre management block. Habitat restoration activities by JDSP in this area are expected to result in the enhancement of scrub-jay habitat, and possibly an expansion of suitable habitat for this species.

The EA considers the environmental consequences of one action alternative which would require issuance of an ITP and two alternatives that would not require issuance of an ITP, including the no action alternative. Both alternatives not requiring issuance of an ITP will ultimately result in loss of scrub-jay habitat within the Project site due to habitat degradation resulting from lack of management. The no action alternative (*i.e.*, the Service would not issue an ITP) may also expose the Applicant under Section 9 of the Act, if they proceed with the Project as designed. The preferred alternative would affect about 13.5 acres of occupied scrub-jay habitat while protecting and enhancing about 36.8 acres of scrub habitat that may be subject to urban development in the future.

The proposed action alternative is issuance of the ITP for a three-year term according to the Plan as submitted and described above. Under the proposed alternative, the effect of the proposed minimization and mitigation measures will be the protection of about 36.8 acres of scrub-jay habitat adjacent to and within the Project. The mitigation parcels currently provide habitat for scrub-jay nesting, foraging, and sheltering. Conveyance of fee title of mitigation lands will result in a consolidated southern boundary and removal of inholdings within JDSP which should result in implementation of more effective land management actions. With management, existing conditions within JDSP are expected to improve over the long-term for scrub-jays in the vicinity of the Project site.

As stated above, the Service has made a preliminary determination that the issuance of the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and Plan.

The Service will also evaluate whether the issuance of a section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: November 3, 2003.

Sam D. Hamilton,
Regional Director.

[FR Doc. 03-29080 Filed 11-20-03; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for Regulation of Coastal Armoring by Indian River County, FL.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice

SUMMARY: Indian River County Board of County Commissioners (Applicant) requests an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (U.S.C. 1531 *et seq.*), as amended (Act). The Applicant anticipates taking loggerhead (*Caretta caretta*), green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*), Kemp's ridley (*Lepidochelys kempi*), and hawksbill (*Eretmochelys imbricata*) sea turtles, as a result of authorizing the construction and removal of emergency coastal armoring structures along eroding sections of the 22.25 miles of County coastline. Take is also anticipated in instances where the emergency coastal armoring structures are subsequently replaced by permanent armoring structures. The Applicant's Habitat Conservation Plan (HCP) identifies the need to protect up to 31 upland structures with armoring resulting in about 3,196 linear feet of shoreline impacted by construction and presence of armoring structures. Based on coastal erosion modeling, the

Applicant has identified critically eroded sections of beach where armoring structures may be needed over the duration of the requested 30-year ITP.

Sea turtle nests may be impacted during construction of the armoring structures. In addition, once armoring structures are complete they may affect sea turtles by adversely modifying nesting habitat and/or sea turtle nesting behavior. The Applicant proposes to minimize impacts of constructing coastal armoring through implementation of stringent construction timing restrictions and best management practices. To mitigate for unavoidable impacts, the Applicant proposes to implement various actions that will increase sea turtle nesting success. A more detailed description of the minimization and mitigation measures to address the effects of coastal armoring on sea turtles are outlined in the Applicant's HCP, and in the **SUPPLEMENTARY INFORMATION** section below.

The Service announces the availability of the HCP and our Environmental Assessment (EA) for the incidental take application. Copies of the HCP and EA may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This Notice is provided pursuant to section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

The Service specifically requests information, views, and opinions from the public via this Notice on the Federal action. Further, the Service specifically solicits information regarding the adequacy of the HCP as measured against the Service's permit issuance criteria found in 50 CFR Parts 13 and 17.

If you wish to comment, you may submit comments by any one of several methods. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the Internet to david_dell@fws.gov. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your Internet message. If you do not receive a confirmation from the Service that we have received your Internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review

during regular business hours.

Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

DATES: Written comments on the permit application, supporting documentation, EA, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before January 20, 2004.

ADDRESSES: Persons wishing to review the application, supporting documentation, EA, and HCP may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, Florida 32960-3559. Written data or comments concerning the application, supporting documentation, EA, or HCP should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Comments must be submitted in writing to be adequately considered in the Service's decision-making process. Please reference permit number TE057875-0 in such comments, or in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional Coordinator, (see **ADDRESSES** above), telephone: 404/679-7313, facsimile: 404/679-7081; or Ms. Sharon Tyson, Fish and Wildlife Biologist, South Florida Ecological Services Field Office (see **ADDRESSES** above), telephone: 772/562-3909 extension 324.

SUPPLEMENTARY INFORMATION: Florida law allows for beachfront homeowners to apply for permits to construct armoring structures to safeguard homes and other eligible structures from damage due to impending coastal erosion. If threats of property damage

are immediate, homeowners may apply for emergency authorization to protect their home and/or other eligible structures. Under existing Florida statutes, county governments may assume emergency coastal armoring permitting authority. To date, Indian River County is the only Florida county to assume this responsibility and since 1996 has issued six permits for emergency armoring, covering 20 upland structures. In the late 1990s, concerns were expressed by the Florida Department of Environmental Protection (FDEP) and Caribbean Conservation Corporation (CCC), a non-profit environmental advocacy group, that Indian River County's implementation of coastal armoring permitting was resulting in the take of sea turtles that nest throughout the shoreline of Indian River County. To avoid immediate litigation, the FDEP, CCC, Applicant, and Petitioners (affected homeowners) entered into an Interim Agreement that required, in part, the Applicant to develop a HCP and apply for an ITP.

Three species of sea turtles nest on the beaches of Indian River County. On average 5,894 loggerhead, 271 green, and 7 leatherback sea turtles annually nest along Indian River County's 22.25 miles of coastline. Neither hawksbill or Kemp's ridley turtles have been documented to nest in Indian River County. Portions of northern Indian River County beaches are considered critically important for loggerhead turtles and some of the highest concentrations of green sea turtles nesting in the State occur within Archie Carr National Wildlife Refuge in southern Brevard and northern Indian River counties.

While the mechanism remains largely unknown, nesting sea turtles return to their natal beaches when they are reproductively mature. Once a gravid female reaches her selected nesting beach, she hauls herself from the sea, crawls to an area above the mean high water line (in Indian River County this is usually at the toe of the primary dune), excavates an egg chamber, deposits 80 to 135 eggs (depending on the species), covers the egg chamber, and returns to the sea. This process typically takes about one and a half hours and for most species occurs at night. Loggerhead turtles nest from late April to mid September, green turtles from late May to mid September, and leatherback turtles from late February to July. Artificial lights, obstructions (*e.g.*, groins, escarpments, beach furniture, and armoring structures), night-time human activity on nesting beaches, and predation are known or suspected to deter turtles from nesting.

Sea turtle eggs incubate within the warm, moist egg chamber for 50 to 75 days (species specific). Incubating eggs are vulnerable to predation, crushing, drowning, or washout. Along Indian River County's coastline, sea turtle nests are depredated principally by raccoons and in some locations predation rates may be as high as 30 percent. Trampling by humans and heavy construction equipment can crush sea turtle nests. Sea turtle eggs can withstand occasional inundation associated with spring tides, but repeated or long-duration inundation typically associated with storm events can drown eggs. During storm events, sea turtle nests are often washed out. Nests deposited between an armoring structure and the sea are more vulnerable to washout.

After hatching, young sea turtles dig upward to the beach surface and immediately crawl toward the sea. Hatchling emergence typically occurs at night. Factors affecting the survival of hatchling sea turtles include compaction of sand on top of the egg chamber, predation, and disorientation due to artificial lighting. Pedestrian traffic and heavy equipment use can cause compaction of sand and create an impenetrable substrate for hatchling turtles which ultimately results in their death. Following successful emergence at the beach surface, hatchlings are vulnerable to terrestrial and aerial predators. Raccoons, domestic cats, ghost crabs, and a variety of sea birds often take hatchling sea turtles. Because hatchling sea turtles orient to ambient light reflected by the sea surface, artificial light sources can interfere with the ability of hatchlings to correctly orient towards the sea. Often, disoriented hatchlings are attracted towards the source of the artificial light and away from the sea. Disoriented hatchlings typically die from desiccation, predation, or exhaustion.

The Applicant proposes to authorize the construction of up to 31 emergency coastal armoring structures on beachfront property used by nesting sea turtles. The 31 armoring structures will impact about 3,196 linear feet of coastline where turtles nest. Over the 30-year period of the requested ITP, the Applicant anticipates taking 1,185 sea turtle nests. The loss of sea turtle nests is expected due to a decrease in the quality of nesting habitat seaward of armoring structures once they are built. Adult sea turtles and their eggs and hatchlings may also be taken during construction of temporary emergency shoreline armoring structures due to the destruction of eggs by equipment and construction materials, mortality of eggs due to relocation actions, mortality of

hatchlings and adults due to entanglement in construction equipment and debris or entrapment in excavated areas, and from harassment due to construction activities. Construction-related impacts to sea turtles and their nests are expected to be minor.

Most of the taking of sea turtles will occur as a result of post-construction impacts of the armoring structures. Once completed, armoring structures can prevent sea turtles from accessing suitable nesting habitat, result in modified nesting behavior, or increase the risk of wash-out of nests constructed seaward of armoring structures. Construction and post-construction impacts are described in greater detail below.

Construction: A variety of emergency armoring structures may be constructed under the Applicant's statutory authority. Possible armoring structures can generally be divided into two categories; soft structures and hardened structures. Soft structures typically refer to the placement of beach-compatible sand into areas that have eroded and may take the form of loose sand or sand temporarily contained by fabric or other materials. Hardened structures usually include "walls" constructed of wood, metal sheetpile, or concrete. These types of structures are sited as landward as possible but can occur within the tidal zone on severely eroded beaches.

Depending on the type of structure to be built, the construction may involve the scraping of sand from lower areas of the beach and using it to create a protective berm. Alternatively, beach-compatible fill from upland sources may also be used in some localities to create a protective berm. Temporary barriers made of sand bags or geo-textile tubes filled with sand may also be used. Existing structures may be reinforced with one or more of the methods described above. The construction of hardened emergency armoring structures requires the driving of pilings and/or sheetmetal into the soil.

During any of these construction activities, sea turtle nests may be smothered, unearthed, or crushed. Additionally, equipment and materials left on the beach overnight may effectively eliminate or prevent nesting turtles from reaching otherwise suitable nesting habitat. Those same materials, as well as holes and debris on the beach, may entrap both adult and hatchling turtles.

Post Construction: An armoring structure can have deleterious effects on nesting sea turtles. Although emergency armoring structures can only remain in place for a maximum of 30 days

pursuant to State regulations, opportunities exist for beachfront homeowners to apply to the State of Florida for a permit to replace temporary emergency armoring structures with permanent structures. Thus, sea turtles could potentially be exposed to the long-term effects of armoring structures and the HCP and environmental assessment assume that all authorized emergency armoring structures subsequently become permanent structures.

Beaches seaward of seawalls and other armoring structures are typically narrower than natural unarmored beaches. As a result, on eroding shorelines seawalls may increase swash velocity, duration and elevation, thereby accelerating erosion in front of the structure. Additionally, buried portions of a seawall may alter beach porosity, permeability, beach groundwater elevation, and beach slope variability. Collectively, these changes in beach characteristics can diminish the quality of the beach as nesting habitat for sea turtles and these areas may be avoided by gravid female sea turtles. Furthermore, the physical presence of armoring structures may decrease the number of emergences by nesting females in front of the structures. Additionally, females that encounter hardened structures are more likely to return to sea without nesting. Females that encounter hardened structures when seeking suitable nesting habitat may wander more than turtles not encountering hardened structures. Behavioral modifications such as these likely increase energy expenditure and decrease fitness of nesting sea turtles.

The Service has worked with the Applicant to design measures to minimize and mitigate the impacts of coastal armoring on nesting sea turtles. Minimization measures proposed by the Applicant include conservation benefits from pre-project proactive planning, stringent pre-construction assessments and permitting, implementation of construction precautions during the nesting season, and requirements for post-construction monitoring during the nesting season. A public awareness program will be implemented to inform beachfront homeowners of coastal erosion and the regulatory process for protecting properties. Homeowners will be encouraged to take proactive steps to protect their property and prevent the need to seek emergency armoring permits. If landowners voluntarily take preventative action by installing armoring structures prior to an emergency situation, impacts to nesting sea turtles could be reduced. Furthermore, in the event emergency

armoring is requested, the Applicant agrees to stringently review the application, identify the most practical, least-impact armoring design and location, and require avoidance or relocation of affected sea turtle nests. During construction, the Applicant will require daily sea turtle nesting surveys at the construction and access sites, marking of nest sites, relocation of vulnerable nests, and minimization of impacts through timing restrictions on use and location of heavy equipment. Following construction, the Applicant agrees to require that sea turtle nesting surveys continue until all construction debris and materials are removed from the beach. Finally, in the event any emergency structure is removed, all of the minimization measures identified above for use during construction will also be implemented.

The Applicant has completed or is proposing a number of mitigation measures that will indirectly or directly benefit nesting sea turtles. Protection of beachfront property, implementation of a predator control program, better light management, and systematic sea turtle nest surveys are expected to result in conservation of turtles and their nests. Several of the proposed mitigation measures will have quantifiable results, including an expected reduction in nest predation from areas currently known to suffer high predation rates. A coordinated effort to educate beachfront homeowners about the effects of light pollution and subsequent modification and enforcement of a county lighting ordinance is expected to be beneficial to nesting turtles and hatchlings. The Applicant has also cost-shared on the acquisition of beachfront property and anticipates that the protection of 1,500 linear feet of shoreline resulting from this acquisition will eliminate future threats (e.g., lighting, armoring, and human disturbance) associated with residential and commercial development that may have existed without public acquisition. These mitigation benefits should total just over 5,100 additional nests of all species combined over the life of the proposed permit compared to the expected cumulative nest success without conservation measures (a ratio of about 4 saved nests per each destroyed or displaced nest). Finally, the Applicant also proposes to administer systematic sea turtle nest surveys for areas not already covered by index nesting-beach surveys. The Applicant intends to act as a clearinghouse for survey information so that consistent biological information is available for use in making decisions

that may affect sea turtles and/or their nests.

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, the ITP will be issued for the incidental take of sea turtles along Indian River County's coastline. The Service will also evaluate whether the issuance of a section 10(a)(1)(B) permit complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of the Biological Opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: November 5, 2003.

Sam D. Hamilton,

Regional Director.

[FR Doc. 03-29081 Filed 11-20-03; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Elk Valley Rancheria 203.5 Acre Fee-to-Trust Transfer and Casino/Resort Project, Del Norte County, CA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA), with the cooperation of the Elk Valley Rancheria, intends to gather information necessary for preparing an Environmental Impact Statement (EIS) for the proposed 203.50 acre Fee-to-Trust Transfer and Casino Project in Del Norte County, California. The purpose of the proposed action is to help meet the land base and economic needs of the Elk Valley Rancheria. This notice also announces a public scoping meeting to identify potential issues, topics and alternatives for consideration in the EIS. **DATES:** Written comments must arrive by December 30, 2003. The public scoping meeting will be held on December 15, 2003, from 5 p.m. to 8 p.m., or until the last public comment is received.

ADDRESSES: You may mail or hand carry written comments on the scope of the EIS to Clay Gregory, Acting Regional Director, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Room W-2820, Sacramento, California 95825.

Please include your name, return address and the caption, "DEIS Scoping Comments, Elk Valley Rancheria, Martin Ranch, Fee to Trust Casino Project 203.50 Acre Fee-to-Trust Casino Project, Del Norte County, California," on the first page of your written comments.

The public scoping meeting will be held at the Elk Valley Tribal Center, 2332 Howland Hill Road, Crescent City, California 95531.

FOR FURTHER INFORMATION CONTACT: William Allan, (916) 978-6043.

SUPPLEMENTARY INFORMATION: The Elk Valley Rancheria is located just east of Crescent City, California, on Howland Hill Road. The project area, known locally as the Martin Ranch, is located southeast of Crescent City, adjacent to Highway 101 and Humboldt Road.

The Elk Valley Rancheria proposes that 203.50 acres of land that is currently owned by the tribe in fee title be taken into federal trust, and that the site be developed for recreation/tourism by constructing a golf course, hotel, conference facilities and casino for the benefit of the tribe and the local community. The project site is currently undeveloped, with the exception of a single-family residence and its associated barn and outbuildings. The BIA will serve as the lead agency for National Environmental Policy Act compliance.

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the mailing address shown in the **ADDRESSES** section, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish us to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR, parts 1500 through

1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1-6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: November 12, 2003.

Aurene M. Martin,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 03-29088 Filed 11-20-03; 8:45 am]

BILLING CODE 4310-W7-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-960-1430-BJ, ES-052004, Group 16, Illinois]

Notice of Filing of Plat of Survey; Illinois

The Bureau of Land Management (BLM) will officially file the plat of the survey of an amended portion of the Carlyle Reservoir acquisition boundary, in Township 3 North, Range 1 West, of the Third Principal Meridian, in the State of Illinois, accepted on October 30, 2003, in the Eastern States Office, Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

The survey was requested by the U.S. Army Corps of Engineers.

All inquiries or protests concerning the technical aspects of the survey must be submitted in writing to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to the date of the official filing.

We will place a copy of the plat we described in the open files. Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: October 30, 2003.

Stephen D. Douglas,

Chief Cadastral Surveyor.

[FR Doc. 03-29082 Filed 11-20-03; 8:45 am]

BILLING CODE 4310-GJ-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-030-1430-BJ, ES-052005, Group 27, Missouri]

Notice of Filing of Plat of Survey; Missouri

The Bureau of Land Management (BLM) will officially file the plat of the

remonumentation of a portion of the subdivisional lines and the monumentation of a portion of the subdivision of sections 3 and 4, which define a portion of the Wappapello Lake acquisition boundary in Township 28 North, Range 5 East, Fifth Principal Meridian, Missouri, accepted on October 30, 2003, in the Eastern States Office, Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

The survey was requested by the U.S. Army Corps of Engineers.

All inquiries or protests concerning the technical aspects of the survey must be submitted in writing to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to the date of the official filing.

We will place a copy of the plat we described in the open files. Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: November 3, 2003.

Stephen D. Douglas,

Chief Cadastral Surveyor.

[FR Doc. 03-29083 Filed 11-20-03; 8:45 am]

BILLING CODE 4310-GJ-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1059 (Preliminary)]

Hand Trucks From China

AGENCY: International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731-TA-1059 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of hand trucks, provided for in subheading 8716.80.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for

initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by December 29, 2003. The Commission's views are due at Commerce within five business days thereafter, or by January 6, 2004.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: November 13, 2003.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Haines (202-205-3200), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. This investigation is being instituted in response to a petition filed on November 13, 2003, by Gleason Industrial Products, Inc., Los Angeles, CA.

Participation in the investigation and public service list. Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO)

and BPI service list. Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference. The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on December 4, 2003, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Elizabeth Haines (202-205-3200) not later than December 1, 2003, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions. As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before December 9, 2003, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

Issued: November 17, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03-29089 Filed 11-20-03; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-52,935]

Agilent Technologies, Loveland, CO; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 24, 2003, in response to a worker petition filed on behalf of workers of Agilent Technologies, Loveland, Colorado.

The petition regarding the investigation has been deemed invalid. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 16th day of October, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03-29120 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-40,525E]

The Boeing Company, Boeing Defense and Space Group, Commercial Airplane Group, Labinal-Corinth, Inc., Corinth, Texas; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on July 18, 2002, applicable to workers of The Boeing Company, Commercial Airplane Group, Corinth, Texas. The notice was published in the **Federal Register** on July 29, 2002 (67 FR 49039-49040).

At the request of Labinal-Corinth, Inc., the Department reviewed the

certification for workers of the subject firm. The workers are engaged in the production of large commercial aircraft and the components thereof.

New information shows that Labinal-Corinth, Inc. purchased substantially all of the assets and business of Boeing-Corinth, Inc. on June 6, 2003. Workers separated from employment at the subject firm following the purchase had their wages reported under a separate unemployment insurance (UI) tax account for Labinal-Corinth, Inc.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of The Boeing Company, Boeing Defense and Space Group, Commercial Airplane Group, and Labinal-Corinth, Inc. who were adversely affected by increased imports.

The amended notice applicable to TA-W-40,525E is hereby issued as follows:

All workers of The Boeing Company, Boeing Defense and Space Group, Commercial Airplane Group, and Labinal-Corinth, Inc., Corinth, Texas (TA-W-40,525E) who became totally or partially separated from employment on or after February 25, 2002, through March 18, 2004, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 15th day of October 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03-29135 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-52,704]

Brindar, Gresham, OR; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 29, 2003, in response to a petition filed by a company official on behalf of workers of Brindar, Gresham, Oregon.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 7th day of October, 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03-29122 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-51,241I]

Chicago Cold Rolling, a Subsidiary of Bethlehem Steel Corporation, Portage, IN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 16, 2003, applicable to workers of Chicago Cold Rolling, a subsidiary of Bethlehem Steel Corporation, Currently Known as International Steel Group, Chicago, Illinois. The notice was published in the **Federal Register** on June 3, 2003 (68 FR 33195).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. New findings show that the Department incorrectly identified the city and state location of the subject firm. Therefore, the Department is amending the certification determination to correctly identify the city and state location to read Portage, Indiana.

The amended notice applicable to TA-W-51,241I is hereby issued as follows:

All workers of Bethlehem Steel Corporation, Currently Known as International Steel Group, Sparrows Point, Maryland (TA-W-51,241), Bethlehem Steel Corporation, Currently Known as International Steel Group, Lackawanna, New York (TA-W-51, 241A), Bethlehem Steel Corporation, Currently Known as International Steel Group, Coatesville, Pennsylvania (TA-W-51,241B), Bethlehem Steel Corporation, Currently Known as International Steel Group, Conshohocken, Pennsylvania (TA-W-51,241C), Bethlehem Steel Corporation, Bethlehem, Pennsylvania (TA-W-51,241G), Bethlehem Steel Corporation, Government Affairs Office, Washington, D.C. (TA-W-51,241H), and Chicago Cold Rolling, a subsidiary of Bethlehem Steel Corporation, Currently Known as International Steel Group, Portage, Indiana (TA-W-51,241I), who became totally or partially separated from employment on or after March 19, 2002, through May 16, 2005, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 21st day of October 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03-29133 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-52,566]

Copperweld Corporation, Piqua, OH; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 15, 2003, in response to a worker petition filed by the United Steelworkers of America, Local 6328, on behalf of workers at Copperweld Corporation, Piqua, Ohio.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 14th day of October 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03-29111 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-51,816]

Daylight Harbor, Inc., Kodiak, AK; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(c) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Daylight Harbor, Inc., Kodiak, Alaska. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-51,816; Daylight Harbor, Inc., Kodiak, Alaska (October 23, 2003).

Signed at Washington, DC, this 31st day of October, 2003.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03-29131 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-52,900]

**Fishing Vessel (F/V) Wolf Chief,
Ketchikan, AK; Notice of Termination
of Investigation**

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 23, 2003, in response to a petition filed by a company official on behalf of workers of Fishing Vessel (F/V) Wolf Chief, State of Alaska Commercial Fisheries Entry Commission Permit # SO1A58513F, 38605, Ketchikan, Alaska.

All workers were separated from the subject firm more than one year before the date of the petition. Section 223(b) of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 7th day of October, 2003.

Richard Church,*Certifying Officer, Division of Trade
Adjustment Assistance.*

[FR Doc. 03-29124 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-52,462]

**Fishing Vessel (F/V) Robert Booney,
Cordova, Alaska; Dismissal of
Application for Reconsideration**

Pursuant to 29 CFR 90.18(c) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Fishing Vessel (F/V) Robert Booney, Cordova, Alaska. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-52,462; Fishing Vessel (F/V) Robert Booney, Cordova, Alaska (October 14, 2003)

Signed at Washington, DC, this 5th day of November, 2003.

Timothy Sullivan,*Director, Division of Trade Adjustment
Assistance.*

[FR Doc. 03-29127 Filed 11-20-03; 8:45 am]

BILLING CODE 4570-30-M

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-52,386]

**Fishing Vessel (F/V) Family Pride,
Kodiak, AK; Dismissal of Application
for Reconsideration**

Pursuant to 29 CFR 90.18(c) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Fishing Vessel (F/V) Family Pride, Kodiak, Alaska. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-52,386; Fishing Vessel (F/V) Family Pride, Kodiak, Alaska (October 23, 2003).

Signed at Washington, DC, this 31st day of October, 2003.

Timothy Sullivan,*Director, Division of Trade Adjustment
Assistance.*

[FR Doc. 03-29128 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-51,767]

**Fishing Vessel (F/V) Imperial, Funter
Bay, AK; Dismissal of Application for
Reconsideration**

Pursuant to 29 CFR 90.18(c) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Fishing Vessel (F/V) Imperial, Funter Bay, Alaska. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-51,767; Fishing Vessel (F/V) Imperial Funter Bay, Alaska (October 23, 2003)

Signed at Washington, DC, this 5th day of November 2003.

Timothy Sullivan,*Director, Division of Trade Adjustment
Assistance.*

[FR Doc. 03-29132 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-52,569]

**Hasler, Inc., Shelton, Connecticut;
Notice of Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 15, 2003 in response to a worker petition which was filed on behalf of workers at Hasler, Inc., Shelton, Connecticut (TA-W-52,569).

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 10th day of October 2003.

Richard Church,*Certifying Officer, Division of Trade
Adjustment Assistance.*

[FR Doc. 03-29117 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-53,216]

**Henry I Siegel Company, Inc.,
Nashville, Tennessee; Notice of
Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 10, 2003 in response to a petition filed by a company official on behalf of workers of Henry I Siegel Company, Inc., Nashville, Tennessee. The workers produced jeans.

All workers were separated from the subject firm more than one year before the date of the petition. Section 223 (b) of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 15th day of October 2003.

Elliott S. Kushner,
Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03-29116 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-53,051]

JacksonLea, Santa Fe Springs, California; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 30, 2003, in response to a petition filed by a company official on behalf of workers at JacksonLea, Santa Fe Springs, California.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 14th day of October, 2003.

Elliott S. Kushner,
Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03-29121 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-52,947]

Knernschild Manufacturing Company, Columbia, Missouri; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 24, 2003, in response to a worker petition filed on behalf of workers at Knernschild Manufacturing Company, Columbia, Missouri.

The petitioning group of workers is covered by an earlier petition filed on September 4, 2003 (TA-W-52,810), that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC, this 8th day of October, 2003.

Elliott S. Kushner,
Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03-29125 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-52,825]

Lynn Dean Fashions, Inc., Biscoe, North Carolina; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 11, 2003 in response to a worker petition which was filed by a company official on behalf of workers at Lynn Dean Fashions, Inc., Biscoe, North Carolina (TA-W-52,825).

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 15th day of October, 2003.

Richard Church,
Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03-29114 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-52,712]

Maytag Appliances, Amana, IA, Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 2, 2003, in response to a worker petition filed by a company official on behalf of workers at Maytag Appliances, Amana, Iowa.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 9th day of October 2003.

Richard Church,
Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03-29118 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-52,928]

Northrup Grumman Interconnect Technology, Springfield, MO; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 23, 2003 in response to a worker petition filed a company official on behalf of workers at Northrup Grumman Interconnect Technologies, Springfield, Missouri.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 14th day of October 2003.

Elliott S. Kushner,
Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03-29112 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-52,992]

Planto Furniture Manufacturing Co., Inc., San Antonio, TX, Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 25, 2003 in response to a petition filed by a company official on behalf of workers at Planto Furniture Manufacturing Company, Inc., San Antonio, Texas.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 14th day of October, 2003.

Elliott S. Kushner,
Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03-29113 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-52,945]

**SMTC Manufacturing Corporation of
Massachusetts, Franklin, MA; Notice of
Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 24, 2003 in response to a petition filed by a company official on behalf of workers at SMTC Manufacturing Corporation of Massachusetts, Franklin, Massachusetts.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC this 14th day of October 2003.

Elliott S. Kushner,

*Certifying Officer, Division of Trade
Adjustment Assistance.*

[FR Doc. 03-29115 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-53,091]

**Standard Textile Company, Inc.,
Enterprise, Alabama; Notice of
Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 1, 2003, in response to a worker petition filed by a company official on behalf of workers at Standard Textile Company, Inc., Enterprise, Alabama.

The petitioning group of workers is covered by an earlier petition filed on September 25, 2003 (TA-W-52,989), that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC, this 7th day of October, 2003.

Elliott S. Kushner,

*Certifying Officer, Division of Trade
Adjustment Assistance.*

[FR Doc. 03-29126 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-51,945]

**State of Alaska Commercial Fisheries
Entry Commission Permit
#S04K61830V, Kodiak, AK; Dismissal
of Application for Reconsideration**

Pursuant to 29 CFR 90.18(c) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at State of Alaska Commercial Fisheries Entry Commission Permit #S04K61830V, Kodiak, Alaska. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-51,945; State of Alaska Commercial Fisheries Entry Commission Permit #S04K61830V, Kodiak, Alaska (October 23, 2003).

Signed at Washington, DC, this 5th day of November, 2003.

Timothy Sullivan,

*Director, Division of Trade Adjustment
Assistance.*

[FR Doc. 03-29130 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-50,150 and TA-W-50,150C]

**Thomasville Furniture Industries, Inc.,
Plant B, Thomasville, NC and
Thomasville Furniture Industries, Inc.
Corporate Office, Thomasville, NC;
Amended Certification Regarding
Eligibility to Apply for Worker
Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on March 10, 2003, applicable to workers of Thomasville Furniture Industries, Inc., Plant B, Thomasville, North Carolina. The notice was published in the **Federal Register** on March 26, 2003 (68 FR 14707).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of residential wood household furniture.

The company reports that worker separations occurred at the Corporate

Office, Thomasville, North Carolina location of the subject firm. The Corporate Office workers provide administrative, sales, marketing, and customer service functions for the subject firm's production plants also located in Thomasville, North Carolina.

Based on these findings, the Department is amending the certification to include workers of the Thomasville Furniture Industries, Inc., Corporate Office, Thomasville, North Carolina.

The intent of the Department's certification is to include all workers of Thomasville Furniture Industries, Inc. who were adversely affected by increased imports.

The amended notice applicable to TA-W-50,150 is hereby issued as follows:

All workers of Thomasville Furniture Industries, Inc., Plant B, Thomasville, North Carolina (TA-W-50,150), Plant #, Thomasville, North Carolina (TA-W-50,150A), Plant SFD, Thomasville, North Carolina (TA-W-50,150B), and Corporate Office, Thomasville, North Carolina, who became totally or partially separated from employment on or after November 20, 2001, through March 10, 2005, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 8th day of October 2003.

Richard Church,

*Certifying Officer, Division of Trade
Adjustment Assistance.*

[FR Doc. 03-29134 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-52,715]

**Tingley Rubber Corporation, South
Plainfield, NJ; Negative Determination
Regarding Eligibility To Apply for
Worker Adjustment Assistance**

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 2, 2003, in response to a petition filed by the United Steelworkers of America on behalf of workers of Tingley Rubber Corporation, South Plainfield, New Jersey. The workers produced protective rubber and PVC footwear.

The petitioning group of workers is covered by an active certification issued on August 15, 2003, and which remains in effect (TA-W-39,814, as amended). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 8th day of October, 2003.
Elliott S. Kushner,
Certifying Officer, Division of Trade Adjustment Assistance.
 [FR Doc. 03-29123 Filed 11-20-03; 8:45 am]
BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-52,854]

Business Confidential; U.S. Axle, Inc., Pottstown, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 12, 2003 in response to a petition filed by a company official on behalf of workers at U.S. Axle, Inc., Pottstown, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 7th day of October, 2003.

Richard Church,
Certifying Officer, Division of Trade Adjustment Assistance.
 [FR Doc. 03-29119 Filed 11-20-03; 8:45 am]
BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment & Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations: Work Application/Job Orders Recordkeeping

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an

opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before January 20, 2004.

ADDRESSES: Grace A. Kilbane, Administrator, Office of Workforce Investment, 200 Constitution Avenue, NW., Room S-4231, Washington, DC 20210, (202) 693-3980 (not a toll-free number), E-mail Address: *Kilbane.Grace@dol.gov*, Fax number: (202) 693-3981.

FOR FURTHER INFORMATION CONTACT: Anthony D. Dais, Office of Adult Services, 200 Constitution Avenue, NW., Room C-4512, Washington, DC 20210, (202) 693-2784 (not a toll-free number), E-mail Address: *Dais.Anthony@dol.gov*, Fax number: (202) 693-3015.

SUPPLEMENTARY INFORMATION:

I. Background

States collect information pertaining to core employment and information services using a system of their choice. The exact information collected is determined by the state. This information is essential to the operation of the labor exchange function within states' One-Stop systems, and it is normally collected as part of the job matching referral and placement process. At a minimum, states collect information in order to comply with the regulations at 20 CFR part 652, and the Wagner-Peyser Act, as amended. The requirement to retain information under 20 CFR 652.8(d)(5) is as follows:

“Each state shall retain basic documents for the minimum period specified below:
 work application: one year

job orders: one year.”

II. Desired Focus of Comments

Currently, the Employment & Training Administration is soliciting comments concerning the proposed extension of Work Application/Job Orders Recordkeeping in order to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above in the addressee section of this notice.

III. Current Actions

Type of Review: Extensions.
Agency: Employment & Training Administration.
Title: Work Application/Job Orders Record Keeping.
OMB Number: 1205-0001.
Recordkeeping: One Year.
Affected Public: State Governments.
Cite/Reference/Form/etc: 20 CFR 652.8(d)(5).
Total Respondents: 52.
Frequency: Quarterly.
Total Responses: 416.
Average Time per Response: One hour.
Estimated Total Burden Hours: 416 hours.

Form/activity	Total respondents	Frequency	Total responses	Average time per response (hour)	Burden
Work Application	52	Quarterly	208	1	208
Job Order	52	Quarterly	208	1	208
Totals	104	Quarterly	416	.....	416

(52 States include Puerto Rico and the District of Columbia)

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintaining): \$0.

Comments submitted in response to this notice will be summarized and/or

included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: November 13, 2003.

Emily Stover DeRocco,

Assistant Secretary for Employment & Training Administration.

[FR Doc. 03-29077 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection: Claim for Reimbursement of Benefit Payments and Claims Expense Under the War Hazards Compensation Act (CA-278). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before January 20, 2004.

ADDRESSES: Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S-3201, Washington, DC 20210, telephone (202) 693-0418, FAX (202) 693-1451, Email bell.hazel@dol.gov. Please use only one method of transmission for comments (mail, FAX, or Email).

SUPPLEMENTARY INFORMATION

I. *Background:* The Office of Workers' Compensation Programs (OWCP) is the federal agency responsible for administration of the War Hazards Compensation Act (WHCA), 42 U.S.C. 1701 *et seq.* Under section 1704(a) of the

WHCA, an insurance carrier or self-insured who has paid workers' compensation benefits to or on account of a Federal contractors' employee (or certain other selected persons) performing work outside of the United States for a war-risk hazard may seek reimbursement for benefits paid (plus claims expense) out of the Employees Compensation Fund established by the Federal Employees' Compensation Act (FECA) at 5 U.S.C. 8147. The information collected by Form CA-278 is used by OWCP staff to process requests for reimbursement of WHCA benefit payments and claims expense that are submitted by insurance carriers and self-insureds. The information is also used by OWCP to decide whether it should opt to pay ongoing WHCA benefits directly to the injured worker.

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. *Current Actions:* The Department of Labor seeks approval to collect this information in order to carry out its responsibility to reimburse insurance carriers and self-insureds who meet the statutory requirements of the War Hazards Compensation Act (WHCA) for reimbursement.

Type of Review: New Collection.

Agency: Employment Standards Administration.

Title: Claim for Reimbursement of Benefit Payments and Claims Expense Under the War Hazards Compensation Act.

OMB Number: 1215-.

Agency Number: CA-278.

Affected Public: Business or other for-profit.

Total Respondents: 20.

Total Responses: 80.

Estimated Total Burden Hours: 40.

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintenance): \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: November 17, 2003.

Bruce Bohanon,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 03-29078 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-CH-P

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amend, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract

work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

Delaware

DE030009 (Jun. 13, 2003)

Pennsylvania

PA030001 (Jun. 13, 2003)
 PA030002 (Jun. 13, 2003)
 PA030003 (Jun. 13, 2003)
 PA030004 (Jun. 13, 2003)
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 PA030032 (Jun. 13, 2003)
 PA030038 (Jun. 13, 2003)
 PA030040 (Jun. 13, 2003)
 PA030042 (Jun. 13, 2003)
 PA030059 (Jun. 13, 2003)
 PA030060 (Jun. 13, 2003)
 PA030061 (Jun. 13, 2003)
 PA030065 (Jun. 13, 2003)

Volume III

North Carolina

NC030008 (Jun. 13, 2003)

Volume IV

None

Volume V

None

Volume VI

North Dakota

ND030001 (Jun. 13, 2003)
 ND030004 (Jun. 13, 2003)
 ND030008 (Jun. 13, 2003)
 ND030015 (Jun. 13, 2003)
 ND030016 (Jun. 13, 2003)
 ND030003 (Jun. 13, 2003)
 ND030005 (Jun. 13, 2003)
 ND030009 (Jun. 13, 2003)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and Related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at

each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at <http://www.access.gpo.gov/davisbacon>. They are also available electronically by subscription to the Davis-Bacon Online Service (<http://davisbacon.fedworld.gov>) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc. Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 13th day of November 2003.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 03-28836 Filed 11-20-03; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Change In Subject of Meeting; Sunshine Act Meeting

The National Credit Union Administration Board determined by unanimous vote to delete the following item from the previously announced open meeting (FR Vol. 68, No. 222, page 65089, November 18, 2003) scheduled for Thursday, November 20, 2003.

2. Advance Notice of Proposed Rulemaking: Interagency Proposal to Consider Alternative Forms of Privacy Notices.

Earlier announcement of this change was not possible.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518-6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 03-29314 Filed 11-19-03; 2:03 pm]

BILLING CODE 7535-01-M

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Heather Gottry, Acting Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606-8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606-8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* December 2, 2003.

Time: 9 a.m. to 5 p.m.

Room: 415.

Program: This meeting will review applications for Anthropology and

Archaeology, submitted to the Division of Preservation and Access at the July 15, 2003 deadline.

2. *Date:* December 3, 2003.

Time: 8:30 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Teaching and Learning Resources and Curriculum Development, submitted to the Division of Education Programs at the October 15, 2003 deadline.

3. *Date:* December 4, 2003.

Time: 8:30 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Teaching and Learning Resources and Curriculum Development, submitted to the Division of Education Programs at the October 15, 2003 deadline.

4. *Date:* December 5, 2003.

Time: 9 a.m. to 5 p.m.

Room: 415.

Program: This meeting will review applications for Anthropology and Archaeology, submitted to the Division of Preservation and Access at the July 15, 2003 deadline.

5. *Date:* December 5, 2003.

Time: 8:30 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Teaching and Learning Resources and Curriculum Development, submitted to the Division of Education Programs at the October 15, 2003 deadline.

6. *Date:* December 8, 2003.

Time: 8:30 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Teaching and Learning Resources and Curriculum Development, submitted to the Division of Education Programs at the October 15, 2003 deadline.

7. *Date:* December 9, 2003.

Time: 8:30 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Teaching and Learning Resources and Curriculum Development, submitted to the Division of Education Programs at the October 15, 2003 deadline.

8. *Date:* December 9, 2003.

Time: 9 a.m. to 5 p.m.

Room: 415.

Program: This meeting will review applications for Anthropology and Archaeology, submitted to the Division of Preservation and Access at the July 15, 2003 deadline.

9. *Date:* December 11, 2003.

Time: 8:30 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Teaching and Learning Resources and Curriculum Development, submitted to the Division of Education Programs at the October 15, 2003 deadline.

10. *Date:* December 12, 2003.

Time: 9 a.m. to 5 p.m.

Room: 415.

Program: This meeting will review applications for Anthropology and Archaeology, submitted to the Division of Preservation and Access at the July 15, 2003 deadline.

11. *Date:* December 15, 2003.

Time: 8:30 a.m. to 5 p.m.

Room: 730.

Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the November 3, 2003 deadline.

12. *Date:* December 15, 2003.

Time: 8 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Fellowship Programs at Independent Research Institutions, submitted to the Division of Research Programs at the September 1, 2003 deadline.

13. *Date:* December 16, 2003.

Time: 8:30 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Teaching and Learning Resources and Curriculum Development, submitted to the Division of Education Programs at the October 15, 2003 deadline.

Heather Gottry,

Acting Advisory Committee Management Officer.

[FR Doc. 03-29094 Filed 11-20-03; 8:45 am]

BILLING CODE 7536-01-P

NUCLEAR REGULATORY COMMISSION

Seeks Qualified Candidates for the Advisory Committee on Nuclear Waste

AGENCY: Nuclear Regulatory Commission

ACTION: Request for resumés.

SUMMARY: The U.S. Nuclear Regulatory Commission seeks qualified candidates for the Advisory Committee on Nuclear Waste. Submit resumés to: Ms. Sherry Meador, Administrative Assistant, ACRS/ACNW, Mail Stop T2E-26, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or e-mail SAM@NRC.gov.

SUPPLEMENTARY INFORMATION: The Commission established the Advisory

Committee on Nuclear Waste (ACNW) to provide independent technical review of and advice on matters related to the management of nuclear waste, including all aspects of nuclear waste disposal facilities, as directed by the Commission. The ACNW undertakes independent studies and reviews related to disposal, storage, and transportation of both high- and low-level radioactive waste including interim storage of spent nuclear fuel; materials safety; and facilities decommissioning. This encompasses activities related to rulemakings, associated regulatory guides, and technical positions developed to support and clarify NRC's nuclear materials and radioactive waste regulations. Committee members are selected from a variety of engineering and scientific disciplines, such as risk assessment, chemistry, mechanical engineering, civil engineering, materials sciences, and the earth sciences. At this time, candidates are being sought who have 15–20 years of experience, including graduate level education, in the management and disposal of radioactive waste. Committee members serve a 4-year term with the possibility of reappointment for a total service of 8 years.

Criteria used to evaluate candidates include education and experience, demonstrated skills in nuclear waste management matters, and the ability to solve complex technical problems. The Commission, in selecting its Committee members, considers the need for a specific expertise to accomplish the work expected to be before the ACNW. For this position, the expertise must be directly related to the areas of radioactive waste disposal, site remediation and closure activities, materials degradation, corrosion of metals and alloys, and nuclear fuel cycle. Demonstrated experience would be particularly desirable in engineering design and risk assessment associated with underground structures, tunnels, and mining complexes, with emphasis in the area of radioactive waste storage and disposal. Consistent with the requirements of the Federal Advisory Committee Act, the Commission seeks candidates with diverse backgrounds, so that the membership on the Committee will be fairly balanced in terms of the points of view represented and functions to be performed by the Committee.

Candidates for ACNW appointments may be involved in or have financial interests related to NRC-regulated aspects of the nuclear industry. Because conflict-of-interest considerations may restrict the participation of a candidate in ACNW activities, the degree and

nature of any such restriction on an individual's activities as a member will be considered in the selection process. Each qualified candidate's financial interests must be reconciled with applicable Federal and NRC rules and regulations prior to final appointment. This might require divestiture of securities or discontinuance of certain contracts or grants. Information regarding these restrictions will be provided upon request.

A resumé describing the educational and professional background of the candidate, including any special accomplishments and professional references should be provided. Candidates should provide their current address, telephone number, and e-mail address. All candidates will receive careful consideration. Appointment will be made without regard to such factors as race, color, religion, national origin, sex, age, or disabilities. Candidates must be citizens of the United States and be able to devote approximately 70–100 days per year to Committee business. Applications will be accepted until December 31, 2003.

Dated: November 17, 2003.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 03–29105 Filed 11–20–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on December 3–6, 2003, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Monday, November 20, 2002 (67 FR 70094).

Wednesday, December 3, 2003, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

1:30 p.m.–1:35 p.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

1:35 p.m.–6:30 p.m.: Draft Report on the NRC Safety Research Program (Open)—The Committee will hold a discussion of the Draft ACRS report on the NRC Safety Research Program.

6:45 p.m.–7:15 p.m.: Preparation of ACRS Report (Closed)—The Committee will discuss proposed

ACRS report on Safeguards and Security matters.

Thursday, December 4, 2003, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Draft Final 10 CFR Part 52 Construction Inspection Program Framework (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft final construction inspection program framework for advanced reactor designs and the staff's resolution of public comments.

10:45 a.m.–12:15 p.m.: Proposed Revisions to SRP Chapter 18, Human Factors Engineering (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed revisions to the Standard Review Plan (SRP) Chapter 18, Human Factors Engineering.

1:15 p.m.–2:15 p.m.: Draft Final Revision to 10 CFR 50.48 to Endorse NFPA 805 Fire Protection Standard (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft final revisions to 10 CFR 50.48, which will permit licensees to adopt National Fire Protection Association (NFPA) 805 Standard, as an alternative to the existing fire protection requirements.

2:15 p.m.–3:15 p.m.: Recent Operating Events (Open)—The Committee will hear a briefing by and hold discussions with the cognizant ACRS member regarding significant recent operating events.

3:30 p.m.–7 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports on matters considered during this meeting. In addition, the Committee will discuss a proposed ACRS report on safeguards and security matters (Closed).

Friday, December 5, 2003, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9 a.m.: Subcommittee Report on the Interim Review of the License Renewal Application for the V. C.

Summer Nuclear Power Plant (Open)—The Committee will hear a report by and hold discussions with the Chairman of the ACRS Subcommittee on Plant License Renewal regarding the review of the V. C. Summer license renewal application and the staff's initial Safety Evaluation Report.

9 a.m.–10 a.m.: *Future ACRS Activities/ Report of the Planning and Procedures Subcommittee (Open)*—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, including anticipated workload and member assignments.

10:15 a.m.–10:30 a.m.: *Reconciliation of ACRS Comments and Recommendations (Open)*—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

10:30 a.m.–11 a.m.: *Election of ACRS Officers (Open)*—The Committee will elect Chairman and Vice Chairman for the ACRS and Member-at-Large for the Planning and Procedures Subcommittee for 2004.

2 p.m.–7 p.m.: *Preparation of ACRS Reports (Open/Closed)*—The Committee will discuss proposed ACRS reports on matters considered during this meeting. In addition, the Committee will discuss a proposed ACRS report on safeguards and security matters (Closed).

**Saturday, December 7, 2003,
Conference Room T-2B3, Two White
Flint North, Rockville, Maryland**

8:30 a.m.–12 Noon: *Preparation of ACRS Reports (Open/Closed)*—The Committee will continue discussion of the proposed ACRS reports on matters considered during its meeting. In addition, the Committee will discuss a proposed ACRS report on Safeguards and Security matters (Closed).

12 Noon–2:30 p.m.: *Miscellaneous (Open)*—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 16, 2003 (68 FR 59644). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Associate Director for Technical Support named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Associate Director for Technical Support prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Associate Director for Technical Support if such rescheduling would result in major inconvenience.

In accordance with subsection 10(d) Pub. L. 92-463, I have determined that it is necessary to close portions of this meeting noted above to discuss and protect information classified as national security information as well as unclassified safeguards information pursuant to 5 U.S.C. 552b(c)(1) and (3). Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Dr. Sher Bahadur, Associate Director for Technical Support (301) 415-0138, between 7:30 a.m. and 4:15 p.m., ET.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at pdr@nrc.gov, or by calling the PDR at 1-800-397-4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> or <http://www.nrc.gov/reading-rm/doc-collections/> (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS

meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301-415-8066), between 7:30 a.m. and 3:45 p.m., ET, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

The ACRS meeting dates for Calendar Year 2004 are provided below:

ACRS meeting No.	Meeting Dates
—	January 2004—No meeting.
509	February 5–7, 2004.
510	March 4–6, 2004.
511	April 15–17, 2004.
512	May 6–8, 2004.
513	June 2–4, 2004.
514	July 14–16, 2004.
—	August 2004—No meeting.
515	September 8–11, 2004.
516	October 7–9, 2004.
517	November 4–6, 2004.
518	December 2–4, 2004.

Dated: November 17, 2003.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 03-29104 Filed 11-20-03; 8:45 am]

BILLING CODE 7590-01-P

**OFFICE OF MANAGEMENT AND
BUDGET**

**Public Availability of Fiscal Year (FY)
2003 Agency Inventories Under the
Federal Activities Inventory Reform
Act of 1998 (Pub. L. 105-270) ("FAIR
Act")**

AGENCY: Office of Management and Budget; Executive Office of the President.

ACTION: Notice of public availability of agency inventory of activities that are not inherently governmental and of activities that are inherently governmental.

SUMMARY: In accordance with the FAIR Act, agency inventories of activities that are not inherently governmental are now available to the public from the agencies listed below for FY 2003. Each fiscal year, the FAIR Act requires that OMB publish an announcement of public availability of agency inventories of activities that are not inherently governmental. After review and consultation with OMB, agencies are required to make their inventories available to the public. Agencies have

also included activities that are inherently governmental. This is the first release of the FAIR Act inventories for FY 2003. Interested parties who disagree with the agency's initial judgment can challenge the inclusion or the omission of an activity on the list of

activities that are not inherently governmental and, if not satisfied with this review, may demand a higher agency review/appeal.

The Office of Federal Procurement Policy has made available a FAIR Act User's Guide through its Internet site: <http://www.whitehouse.gov/OMB/>

[procurement/fair-index.html](http://www.whitehouse.gov/procurement/fair-index.html). This User's Guide will help interested parties review FY 2003 FAIR Act inventories and gain access to agency inventories through agency web-site addresses.

Joshua B. Bolten,
Director.

FIRST FAIR ACT RELEASE 2003

Architectural and Transportation Barriers Compliance Board	Mr. Larry Roffee, 202-272-0001 http://www.access-board.gov .
Chemical Safety Board	Ms. Bea Robinson, 202-261-7627 http://www.csb.gov .
Christopher Columbus Fellowship Foundation	Ms. Judith M. Shellenberger, 315-258-0090 http://www.whitehouse.gov/omb/procurement/fair_list_nosite.html .
Commission on Fine Arts	Mr. Frederick Lindstrom, 202-504-2200 www.http://www.cfa.gov .
Committee for Purchase from People Who are Blind or Severely Disabled.	Mr. Leon Wilson, 703-604-7740 http://www.jwod.gov .
Consumer Product Safety Commission	Mr. Edward Quist, 301-504-7655 http://www.cpsc.gov .
Council on Environmental Quality	Mr. Ted Boling, 202-395-3449 http://www.whitehouse.gov/ceq .
Department of Housing and Urban Development	Ms. Janice Blake-Green, 202 708-0614 x3214 http://www.hud.gov .
Department of Housing and Urban Development	Mr. Michael Kirby, 202-708-0614 IG) x8190 http://www.hudoig.gov .
Department of the Interior	Ms. Helen Bradwell-Lynch, 202-219-0727 http://www.doi.gov .
Department of the Interior (IG)	Mr. Eric Lippold, 202-208-5317 http://www.oig.doi.gov .
Department of Transportation	Mr. David Litman, 202-366-4263 http://www.dot.gov .
Equal Employment Opportunity Commission	Mr. Jeffrey Smith, 202-663-4200 http://www.eeoc.gov .
Federal Communications Commission IG	Mr. Charles Willoughby, 202-418-0472 http://www.fcc.gov/org .
Federal Election Commission	Mr. John O'Brien, 202-694-1216 http://www.fec.gov .
Federal Energy Regulatory Commission	Ms. Kimberly Fernandez, 202-208-1298 http://www.ferc.gov .
Federal Labor Relations Authority	Mr. David Smith, 202-218-7999 http://www.flra.gov .
Federal Maritime Commission	Mr. Bruce Dombrowski, 202-523-5800 http://www.fmc.gov .
Federal Mine Safety and Health Review Commission	Mr. Richard Baker, 202-434-9905 http://www.fmshrc.gov .
Holocaust Museum	Ms. Helen Shepherd, 202-314-0396 http://www.ushmm.gov .
James Madison Memorial Fellowship Foundation	Mr. Steve Weiss, 202-653-6109 http://www.jamesmadison.com .
Merit Systems Protection Board	Ms. Deborah Miron, 202-653-6772 x1168 http://www.mspb.gov .
Morris K. Udall Foundation	Mr. Christopher Helms, 520-670-5530 http://www.udall.gov .
National Aeronautics and Space Administration	Mr. Kenneth Sateriale, 202-358-0491 http://www.nasa.gov .
National Council on Disability	Ms. Ethel Briggs, 202-272-2004 http://www.ncd.gov .
National Endowment for the Humanities	Mr. Barry Maynes, 202-606-8233 http://www.neh.gov .
National Gallery of Art	Mr. William Roache, 202-842-6329 http://www.nga.gov .
National Labor Relations Board	Mr. Emil George, 202-273-1966 http://www.nlrb.gov .
National Labor Relations Board (IG)	Mr. Emil George, 202-273-1966 http://www.nlrb.gov/ig/igindex.htm .
National Mediation Board	Ms. Grace Ann Leach, 202-692-5010 http://www.nmb.gov .
Occupational Safety and Health Review Commission	Ms. Ledia Bernal, 202-606-5390 http://www.oshrc.gov .
Office of Federal Housing Enterprise Oversight	Ms. Jill Weide, 202-414-3813 http://www.ofheo.gov .
Office of Management and Budget	Ms. Trish Haney, 202-395-4754 http://www.whitehouse.gov/omb/procurement/fair/notices_avail.html .
Office of National Drug Control	Mr. Daniel Petersen, 202-395-6745 http://www.whitehousedrugpolicy.gov .
Office of Navaho and Hopi Indian Relocation	Ms. Nancy Thomas, 928-779-2721 http://www.whitehouse.gov/omb/procurement/fair_list_nosite.html .
Office of the Special Counsel	Ms. Sharyn Danch, 202-653-8971 http://www.osc.gov .
Smithsonian Institution	Ms. Alice Maroni, 202-275-2020 http://www.si.edu .
Woodrow Wilson Center	Ms. Ronnie Dempsey, 202-691-4216 http://wwics.si.edu .

[FR Doc. 03-29076 Filed 11-20-03; 8:45 am]
BILLING CODE 3110-01-P

**RAILROAD RETIREMENT BOARD 2004
Railroad Experience Rating
Proclamations, Monthly Compensation
Base and Other Determinations**

Railroad Retirement Board.

ACTION: Notice.

SUMMARY: Pursuant to section 8(c)(2) and section 12(r)(3) of the Railroad

Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(2) and 45 U.S.C. 362(r)(3), respectively), the Board gives notice of the following:

1. The balance to the credit of the Railroad Unemployment Insurance (RUI) Account, as of June 30, 2003, is \$64,044,131.87;
2. The September 30, 2003, balance of any new loans to the RUI Account, including accrued interest, is zero;
3. The system compensation base is \$3,111,077,919.78 as of June 30, 2003;

4. The cumulative system unallocated charge balance is (\$250,584,364.46) as of June 30, 2003;

5. The pooled credit ratio for calendar year 2004 is zero;

6. The pooled charged ratio for calendar year 2004 is zero;

7. The surcharge rate for calendar year 2004 is 1.5 percent;

8. The monthly compensation base under section 1(i) of the Act is \$1,130 for months in calendar year 2004;

9. The amount described in section 1(k) of the Act as "2.5 times the monthly

compensation base" is \$2,825 for base year (calendar year) 2004;

10. The amount described in section 2(c) of the Act as "an amount that bears the same ratio to \$775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to \$600" is \$1,460 for months in calendar year 2004;

11. The amount described in section 3 of the Act as "2.5 times the monthly compensation base" is \$2,825 for base year (calendar year) 2004;

12. The amount described in section 4(a-2)(i)(A) of the Act as "2.5 times the monthly compensation base" is \$2,825 with respect to disqualifications ending in calendar year 2004;

13. The maximum daily benefit rate under section 2(a)(3) of the Act is \$56 with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 2004.

DATES: The balance in notice (1) and the determinations made in notices (3) through (7) are based on data as of June 30, 2003. The balance in notice (2) is based on data as of September 30, 2003. The determinations made in notices (5) through (7) apply to the calculation, under section 8(a)(1)(C) of the Act, of employer contribution rates for 2004. The determinations made in notices (8) through (12) are effective January 1, 2004. The determination made in notice (13) is effective for registration periods beginning after June 30, 2004.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611-2092.

FOR FURTHER INFORMATION CONTACT: Marla L. Huddleston, Bureau of the Actuary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611-2092, telephone (312) 751-4779.

SUPPLEMENTARY INFORMATION: The RRB is required by section 8(c)(1) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(1)) as amended by Public Law 100-647, to proclaim by October 15 of each year certain system-wide factors used in calculating experience-based employer contribution rates for the following year. The RRB is further required by section 8(c)(2) of the Act (45 U.S.C. 358(c)(2)) to publish the amounts so determined and proclaimed. The RRB is required by section 12(r)(3) of the Act (45 U.S.C. 362(r)(3)) to publish by December 11, 2003, the computation of the calendar year 2004 monthly compensation base (section 1(i) of the Act) and amounts described in sections 1(k), 2(c), 3 and 4(a-2)(i)(A) of the Act which are related to changes in the monthly compensation base. Also, the RRB is required to publish, by June 11, 2004, the maximum daily benefit

rate under section 2(a)(3) of the Act for days of unemployment and days of sickness in registration periods beginning after June 30, 2004.

Surcharge Rate

A surcharge is added in the calculation of each employer's contribution rate, subject to the applicable maximum rate, for a calendar year whenever the balance to the credit of the RUI Account on the preceding June 30 is less than the greater of \$100 million or the amount that bears the same ratio to \$100 million as the system compensation base for that June 30 bears to the system compensation base as of June 30, 1991. If the RUI Account balance is less than \$100 million (as indexed), but at least \$50 million (as indexed), the surcharge will be 1.5 percent. If the RUI Account balance is less than \$50 million (as indexed), but greater than zero, the surcharge will be 2.5 percent. The maximum surcharge of 3.5 percent applies if the RUI Account balance is less than zero.

The system compensation base as of June 30, 1991 was \$2,763,287,237.04. The system compensation base for June 30, 2003 was \$3,111,077,919.78. The ratio of \$3,111,077,919.78 to \$2,763,287,237.04 is 1.12586121. Multiplying 1.12586121 by \$100 million yields \$112,586,121. Multiplying \$50 million by 1.12586121 produces \$56,293,061. The Account balance on June 30, 2003, was \$64,044,131.87. Accordingly, the surcharge rate for calendar year 2004 is 1.5 percent.

Monthly Compensation Base

For years after 1988, section 1(i) of the Act contains a formula for determining the monthly compensation base. Under the prescribed formula, the monthly compensation base increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The monthly compensation base for months in calendar year 2004 shall be equal to the greater of (a) \$600 or (b) $\$600 [1 + \{(A - 37,800)/56,700\}]$, where A equals the amount of the applicable base with respect to tier 1 taxes for 2004 under section 3231(e)(2) of the Internal Revenue Code of 1986. Section 1(i) further provides that if the amount so determined is not a multiple of \$5, it shall be rounded to the nearest multiple of \$5.

The calendar year 2004 tier 1 tax base is \$87,900. Subtracting \$37,800 from \$87,900 produces \$50,100. Dividing \$50,100 by \$56,700 yields a ratio of 0.88359788. Adding one gives 1.88359788. Multiplying \$600 by the amount 1.88359788 produces the

amount of \$1,130.16, which must then be rounded to \$1,130. Accordingly, the monthly compensation base is determined to be \$1,130 for months in calendar year 2004.

Amounts Related to Changes in Monthly Compensation Base

For years after 1988, sections 1(k), 2(c), 3 and 4(a-2)(i)(A) of the Act contain formulas for determining amounts related to the monthly compensation base.

Under section 1(k), remuneration earned from employment covered under the Act cannot be considered subsidiary remuneration if the employee's base year compensation is less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 2004 monthly compensation base of \$1,130 produces \$2,825. Accordingly, the amount determined under section 1(k) is \$2,825 for calendar year 2004.

Under section 2(c), the maximum amount of normal benefits paid for days of unemployment within a benefit year and the maximum amount of normal benefits paid for days of sickness within a benefit year shall not exceed an employee's compensation in the base year. In determining an employee's base year compensation, any money remuneration in a month not in excess of an amount that bears the same ratio to \$775 as the monthly compensation base for that year bears to \$600 shall be taken into account. The calendar year 2004 monthly compensation base is \$1,130. The ratio of \$1,130 to \$600 is 1.88333333. Multiplying 1.88333333 by \$775 produces \$1,460. Accordingly, the amount determined under section 2(c) is \$1,460 for months in calendar year 2004.

Under section 3, an employee shall be a "qualified employee" if his/her base year compensation is not less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 2004 monthly compensation base of \$1,130 produces \$2,825. Accordingly, the amount determined under section 3 is \$2,825 for calendar year 2004.

Under section 4(a-2)(i)(A), an employee who leaves work voluntarily without good cause is disqualified from receiving unemployment benefits until he has been paid compensation of not less than 2.5 times the monthly compensation base for months in the calendar year in which the disqualification ends. Multiplying 2.5 by the calendar year 2004 monthly compensation base of \$1,130 produces \$2,825. Accordingly, the amount

determined under section 4(a-2)(i)(A) is \$2,825 for calendar year 2004.

Maximum Daily Benefit Rate

Section 2(a)(3) contains a formula for determining the maximum daily benefit rate for registration periods beginning after June 30, 1989, and after each June 30 thereafter. Legislation enacted on October 9, 1996, revised the formula for indexing maximum daily benefit rates. Under the prescribed formula, the maximum daily benefit rate increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The maximum daily benefit rate for registration periods beginning after June 30, 2004, shall be equal to 5 percent of the monthly compensation base for the base year immediately preceding the beginning of the benefit year. Section 2(a)(3) further provides that if the amount so computed is not a multiple of \$1, it shall be rounded down to the nearest multiple of \$1.

The calendar year 2003 monthly compensation base is \$1,120. Multiplying \$1,120 by 0.05 yields \$56.00, an even multiple of \$1. Accordingly, the maximum daily benefit rate for days of unemployment and days of sickness beginning in registration periods after June 30, 2004, is determined to be \$56.

Dated: November 17, 2003.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 03-29098 Filed 11-20-03; 8:45 am]

BILLING CODE 7905-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of November 24, 2003: A closed meeting will be held on Tuesday, November 25, 2003 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(5), (6), (7), 9(B) and (10)

and 17 CFR 200.402(a)(5), (6), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Glassman, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 25, 2003 will be:

Formal orders of investigation;

Institution and settlement of administrative proceedings of an enforcement nature; and

Institution and settlement of injunctive actions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: November 18, 2003.

Jonathan G. Katz,

Secretary.

[FR Doc. 03-29209 Filed 11-18-03; 4:33 pm]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:

[68 FR 64672, November 14, 2003]

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

ANNOUNCEMENT OF ADDITIONAL MEETING:

Additional meeting.

An additional Closed Meeting will be held on Wednesday, November 19, 2003 at 3 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matter may also be present.

Commissioner Glassman, as duty officer, determined that no earlier notice thereof was possible.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(5), (7), and (10) and 17 CFR 200.402(a)(5), (7), and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Glassman, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the Closed Meeting to be held on Wednesday, November 19, 2003 will be:

Report of Investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 942-7070.

Dated: November 18, 2003.

Jonathan G. Katz,

Secretary.

[FR Doc. 03-29293 Filed 11-19-03; 1:20 pm]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27762]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

November 14, 2003.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 8, 2003, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After December 8, 2003, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Allegheny Energy, Inc., et al.

[70-10100]

Allegheny Energy, Inc. ("Allegheny"), a registered holding company, and

Allegheny Energy Supply Company LLC ("AE Supply"), a registered holding company and public utility company subsidiary of Allegheny (collectively, "Applicants"), 10435 Downsville Pike, Hagerstown, Maryland 21740, have filed a post-effective amendment ("Amendment") to a previous application-declaration under sections 6(a), 7, 9, and 12 of the Act and rules 46, 52 and 54 under the Act.

Applicants seek a continuation through December 31, 2004 of the relief granted by previous order described below from the Commission's requirement that they maintain a common equity ratio of at least 30 percent. Applicants also seek a continuation through December 31, 2004, of certain revised financing conditions authorized in earlier financing orders described below. In addition, Applicants seek continuation of authority for AE Supply to pay dividends out of capital and unearned surplus through December 31, 2004 and authority to make certain changes to Allegheny's debt financing.

By order dated December 31, 2001 (Holding Co. Act Release No. 27486) ("Original Financing Order"), Applicants received authorization to engage in a broad range of financing transactions through December 31, 2005. This order was supplemented by the following orders: Holding Co. Act Release No. 27521 (April 17, 2002) ("April Order"), Holding Co. Act Release No. 27579 (October 17, 2002) ("Supplemental Order", and together with the Original Financing Order and the April Order, "Financing Order"), Holding Co. Act Release No. 27652 (Feb. 21, 2003) ("Capitalization Order"), and Holding Co. Act Release No. 27701 (July 23, 2003) ("Trust Preferred Securities Order:"). The Financing Order grants, among other things, the following authorizations to Allegheny and its subsidiaries:

1. Allegheny to issue up to \$1 billion in equity securities at any time outstanding;

2. Allegheny and/or AE Supply,¹ in the aggregate, to issue and sell to non-associated third parties up to \$4 billion in short-term debt at any time outstanding and up to \$4 billion in unsecured long-term debt at any time outstanding, provided that total debt and equity authority under (1) and (2) shall not exceed \$4 billion at any time outstanding;²

¹ AE Supply is the principal electric generating company for the Allegheny system.

² The Original Financing Order reserves jurisdiction over the issuance of secured long-term debt under the \$4 billion cap. Under the Financing

3. Allegheny and/or its subsidiaries to enter into guarantees, obtain letters of credit, extend credit, enter into guarantee-type expense agreements or otherwise provide credit support with respect to the obligations of an associate company (collectively, "Guarantees"), in the aggregate amount not to exceed \$3 billion any time outstanding;

4. Allegheny to exceed the Rule 53 aggregate investment limitation and to utilize a portion of the proceeds of the equity issuances, short-term debt, long-term debt and Guarantees in any combination to increase its "aggregate investment" (as defined in rule 53(a)) up to \$2 billion in exempt wholesale generators ("EWGs") and foreign utility companies ("FUCOs") under the Act;

5. Allegheny and certain other subsidiaries³ to form one or more direct or indirect special purpose financing subsidiaries that will, among other things, issue debt and/or equity securities and loan the proceeds to Allegheny, AE Supply, and the Other Subsidiaries; and

6. Allegheny, AE Supply and the subsidiaries of Allegheny (other than the operating companies),⁴ whether now existing or created later or acquired, to engage in intra-system financings up to \$4 billion.⁵

The Financing Order established a number of financing parameters that are conditions to the financing transactions authorized in that order and that are applicable through December 31, 2003. These include a requirement that Allegheny maintain, on a consolidated basis, common equity of 30 percent of total capitalization and that AE Supply

Order, the Capitalization Order, and the Trust Preferred Securities Order. Allegheny currently has \$564 million of unsecured debt outstanding and AE Supply currently has \$1.927 billion of secured debt and \$131 million of unsecured debt outstanding (assuming all AE Supply letters of credit were converted into debt). Allegheny has not issued any equity securities to date under the authorization of the Financing Order.

³ The direct and indirect subsidiaries of Allegheny, other than the operating companies as defined below and AE Supply, are referred to as the "Other Subsidiaries."

⁴ Allegheny has three regulated electric public utility companies, West Penn Power Company ("West Penn"), Monongahela Power Company ("Monongahela Power") (Monongahela Power also has a regulated natural gas utility division as a result of its purchase of West Virginia Power), The Potomac Edison Company ("Potomac Edison"), and a regulated public utility natural gas company, Mountaineer Gas Company, which is a wholly-owned subsidiary of Monongahela Power (all collectively doing business as Allegheny Power and collectively, "Operating Companies").

⁵ The Financing Order also authorized companies in the Allegheny system to enter into, perform, purchase and sell financial instruments intended to manage the volatility of interest rates and currency exchange rates, and the Other Subsidiaries to pay dividends out of capital and unearned surplus.

individually maintain common equity of 30 percent of total capitalization. In the Capitalization Order, the Commission modified the financing parameters as follows ("Revised Financing Conditions"):

1. The common equity of Allegheny, on a consolidated basis, will not fall below 28 percent of its total capitalization; and the common equity of AE Supply, on a consolidated basis, will not fall below 20 percent of its total capitalization;

2. The effective cost of capital on any security issued by Allegheny or AE Supply will not exceed competitive market rates available at the time of issuance for securities having the same or reasonably similar terms and conditions issued by similar companies of reasonably comparable credit quality; provided that in no event will (a) the interest rate on any debt securities issued under a bank credit facility exceed the greater of (i) 900 basis points over the comparable term London Interbank Offered Rate ("LIBOR")⁶ or (ii) the sum of 9 percent plus the prime rate as announced by a nationally recognized money center bank, and (b) the interest rate on any debt securities issued to any other financial investor exceed the sum of 12 percent plus the prime rate as announced by a nationally recognized money center bank; and

3. The underwriting fees, commissions and other similar remuneration paid in connection with the non-competitive issuance of any security issued by Allegheny or AE Supply will not exceed the greater of (a) five percent of the principal or total amount of the securities being issued or (b) issuances expenses that are paid at the time in respect of the issuance of securities having the same or reasonably similar terms and conditions issued by similar companies of reasonably comparable credit quality;

4. The respective financing transactions will not be subject to the requirement to maintain either unsecured long-term debt or any commercial paper that may be issued at investment grade level; and

5. The Applicants may issue short-term and/or long-term debt under circumstances when the debt, upon issuance is either unrated or is rated below investment grade.

Applicants committed in their application seeking the Capitalization Order that at any time Allegheny's ratio of common equity to total capitalization

⁶ It should be noted, however, that the interest rate applicable after the occurrence of a default may be increased by an additional increment, typically 200 basis points.

is not at least 30 percent, neither Allegheny nor any of its subsidiaries will invest or commit to invest any funds in any new projects which qualify as EWGs or FUCOs under the Act; provided, however, that Allegheny may increase its investment in EWGs as a result of the qualification of existing projects as EWGs, and Allegheny may make additional investments in an existing EWG to the extent necessary to complete any project or desirable to preserve or enhance the value of Allegheny's investment in the EWG.⁷ Allegheny requested the Commission to reserve jurisdiction over any additional investment by Allegheny and its Subsidiaries in EWGs and FUCOs during the period that Allegheny's common equity ratio is below 30 percent.

Applicants also committed that at any time Allegheny's ratio of common equity to total capitalization is not at least 30 percent, neither Allegheny nor any of its subsidiaries will invest or commit to invest any funds in any new energy-related company within the meaning of rule 58 under the Act ("Rule 58 Company"); provided, however, that Allegheny may increase its investment in an existing Rule 58 Company to the extent necessary to complete any project or desirable to preserve or enhance the value of Allegheny's investment in the company. The commitment also stipulated that Allegheny and/or AE Supply may invest in one or more new Rule 58 Companies which may be created in connection with the restructuring and/or reorganization of the existing energy trading business of AE Supply and its subsidiaries. Allegheny requested that the Commission reserve jurisdiction over any additional investment by Allegheny and its Subsidiaries in Rule 58 Companies during the period that Allegheny's common equity ratio is below 30 percent.

The Capitalization Order also reserved jurisdiction over (i) the financing authorizations at a time that the common equity ratio levels of Allegheny and AE Supply were below 28 percent and 20 percent, respectively, and (ii) the issuance of debt securities at an interest rate in excess of the modified interest rates. In the Trust Preferred Securities Order, the

⁷ The existing EWGs in which Allegheny and its subsidiaries have investments as of the date hereof are as follows: Allegheny Energy Hunlock Creek, LLC, Hunlock Creek Energy Ventures, AE Supply Gleason Generating Facility, LLC, AE Supply Wheatland Generating Facility, LLC, AE Supply Lincoln Generating Facility, LLC, Buchanan Generation, LLC, Acadia Bay Energy Company and Buchanan Generation, LLC.

Commission granted the Applicants' request to release jurisdiction over the issuance by Allegheny of up to \$325 million of convertible trust preferred securities.

In addition, the Capitalization Order authorized AE Supply to pay dividends out of capital and unearned surplus up to \$500 million through December 31, 2003, in order to provide Allegheny with necessary liquidity.

The Capitalization Order required the Applicants to file an application with the Commission if they wish to seek relief from the 30 percent common equity requirement after December 31, 2003 and to extend the Revised Financing Conditions. This Amendment seeks that relief and extension of the Revised Financing Conditions, including the 28 and 20 percent common equity requirements applicable to Allegheny and AE Supply, respectively.

This Amendment also seeks continuation of authority for AE Supply to pay dividends out of capital and unearned surplus up to \$500 million through December 31, 2004. Allegheny proposes to use these funds to pay debt on outstanding indebtedness and for general corporate purposes. Specifically, AE Supply⁸ will declare and pay dividends to Allegheny only to the extent required by Allegheny to pay debt service on outstanding indebtedness which becomes payable beginning the first quarter of 2004 in an aggregate amount of up to \$275 million. Applicants seek authority for AE Supply to pay dividends out of capital and unearned surplus of up to \$275 million for this purpose and request the Commission to reserve jurisdiction over the remainder of AE Supply's \$500 dividend authority.

Allegheny commits that any dividends received by Allegheny from AE Supply will be used solely to pay the principal of and interest on this indebtedness and none of the amounts will be used by Allegheny to pay dividends to its stockholders. To the extent that Allegheny does not require proceeds of dividends from AE Supply to pay indebtedness of Allegheny during 2004, Applicants request that the Commission reserve jurisdiction over the declaration and payment of dividends by AE Supply out of capital and unearned surplus up to an aggregate amount of \$500 million.

Applicants state that they continue to make significant progress toward the

⁸ Since AE Supply is a limited liability company, "dividend" shall include for this purpose any distribution by AE Supply in respect of its membership interests.

resolution of their financial difficulties. On July 25, 2003, Allegheny completed its private placement of \$300 million of convertible trust preferred securities, as authorized by the Trust Preferred Securities Order. On July 28, 2003, AE Supply announced that its subsidiary, Allegheny Trading Finance Company ("ATF") had entered into an agreement to sell its energy supply contract with the California Department of Water Resources (the "CDWR Contract") and associated hedge transactions (collectively, "West Book") to J. Aron & Company ("Aron"), a division of The Goldman Sachs Group, for \$405 million, subject to adjustments for market price changes and hedge transactions not transferred.

On September 15, 2003, AE Supply and ATF announced that they completed the sale of the West Book to Aron for \$354 million. Much of the adjustment from the estimated sale price, previously announced on July 28, 2003, is attributable to contracts with one counterparty, valued at \$38.6 million, which were removed from the sale by mutual agreement of the parties. Changes in the mark-to-market value of the remaining contracts at closing and reduction in the number of remaining trades assumed by Aron, account for the rest of the adjustment. The proceeds from the sale were applied, in large part, to finance the termination of tolling agreements with Williams Companies, Inc. and Las Vegas Cogeneration II and certain related hedging arrangements. In addition, Allegheny will have deposited, after certain escrow funds are released and pursuant to an authorization by certain of its creditors, the remainder of the proceeds (estimated to be approximately \$75 million) in a cash collateral account for the benefit of certain of its lenders.⁹

Sale of the West Book was described in the Trust Preferred Securities Application as, along with the sale of the securities authorized by the Trust Preferred Securities Order, one of the major components of Allegheny's plan to return to financial health. In addition, AE Supply and its subsidiaries Allegheny Energy Supply Conemaugh, LLC, Allegheny Energy Supply Hunlock Creek, LLC, and Allegheny Energy Supply Development Services, LLC have entered into asset sales

⁹ As noted in the amendments submitted in this file on August 19 and September 23, 2003, as a condition to closing, Aron escrowed \$71 million of the proceeds pending an order from the Commission authorizing AE Supply to undertake the guarantees connected with the sale of the West Book. A notice of this amendment was issued on September 23, 2003 (Holding Co. Act Release No. 27723).

agreements, which also are an important part of this plan.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48791; File No. SR-Amex-2003-92]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange LLC Relating to Trust Certificates Linked to a Basket of Investment Grade Fixed Income Securities

November 17, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 22, 2003, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to approve for listing and trading under section 107A of the Amex Company Guide ("Company Guide"), trust certificates linked to a basket of investment grade fixed income debt instruments.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Amex has prepared summaries, set forth in

sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Under section 107A of the Amex Company Guide, the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.³ The Amex proposes to list for trading under section 107A of the Company Guide, the ABS Securities. The Exchange proposes to list and trade under section 107A of the Company Guide, asset-backed securities ("ABS Securities") representing ownership interests in the Select Notes Trust 2003-05 ("Trust"), a special purpose trust to be formed by Structured Obligations Corporation ("SOC"),⁴ and the trustee of the Trust pursuant to a trust agreement, which will be entered into on the date that the ABS Securities are issued. The assets of the Trust will consist primarily of a basket or portfolio of up to approximately twenty-five investment-grade fixed-income securities ("Underlying Corporate Bonds") and the United States Department of Treasury STRIPS or securities issued by the United States Department of the Treasury ("Treasury Securities") or government sponsored entity securities ("GSE Securities"). In the aggregate, the component securities of the basket or portfolio will be referred to as the "Underlying Securities."

The ABS Securities will conform to the initial listing guidelines under section 107A⁵ and continued listing

³ See, Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (order approving File No. SR-Amex-89-29).

⁴ SOC is a wholly-owned special purpose entity of J.P. Morgan Securities Holdings Inc. and the registrant under the Form S-3 Registration Statement (No. 333-67188) under which the securities will be issued.

⁵ The initial listing standards for the ABS Securities require: (1) A minimum public distribution of one million units; (2) a minimum of 400 shareholders; (3) a market value of at least \$4 million; and (4) a term of at least one year. However, if traded in thousand dollar denominations, then there is no minimum holder requirement. In addition, the listing guidelines provide that the issuer have assets in excess of \$100 million, stockholder's equity of at least \$10 million, and pre-tax income of at least \$750,000 in the last fiscal year or in two of the three prior fiscal years. In the case of an issuer which is unable to satisfy the earning criteria stated in section 101 of the Company Guide, the Exchange pursuant to section 107A of the Company Guide will require the issuer to have the following: (1) Assets in excess of \$200 million and stockholders' equity of at least \$10 million; or (2) assets in excess of \$100 million and stockholders' equity of at least \$20 million.

guidelines under sections 1001-1003⁶ of the Company Guide. At the time of issuance, the ABS Securities will receive an investment grade rating from a nationally recognized securities rating organization ("NRSRO"). The issuance of the ABS Securities will be a repackaging of the Underlying Corporate Bonds together with the addition of either Treasury Securities or GSE Securities,⁷ with the obligation of the Trust to make distributions to holders of the ABS Securities depending on the amount of distributions received by the Trust on the Underlying Securities.

However, due to the pass-through and passive nature of the ABS Securities, the Exchange intends to rely on the assets and stockholder equity of the issuers of the Underlying Corporate Bonds as well as GSE Securities, rather than the Trust to meet the requirement in section 107A of the Company Guide. The corporate issuers of the Underlying Corporate Bonds and GSE Securities will meet or exceed the requirements of section 107A of the Company Guide. The distribution and principal amount/aggregate market value requirements found in sections 107A(b) and (c), respectively, will otherwise be met by the Trust as issuer of the ABS Securities. In addition, the Exchange for purposes of including Treasury Securities will rely on the fact that the issuer is the United States Government rather than the asset and stockholder tests found in section 107A.

The basket of Underlying Securities will not be managed and will generally remain static over the term of the ABS Securities. Each of the Underlying Securities provide for the payment of interest on a semi-annual basis, but the

⁶ The Exchange's continued listing guidelines are set forth in sections 1001 through 1003 of Part 10 to the Exchange's Company Guide. Section 1002(b) of the Company Guide states that the Exchange will consider removing from listing any security where, in the opinion of the Exchange, it appears that the extent of public distribution or aggregate market value has become so reduced to make further dealings on the Exchange inadvisable. With respect to continued listing guidelines for distribution of the ABS Securities, the Exchange will rely on the guidelines for bonds in section 1003(b)(iv). Section 1003(b)(iv)(A) provides that the Exchange will normally consider suspending dealings in, or removing from the list, a security if the aggregate market value or the principal amount of bonds publicly held is less than \$400,000.

⁷ A GSE Security is a security that is issued by a government-sponsored entity such as Federal National Mortgage Association ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac"), Student Loan Marketing Association ("Sallie Mae"), the Federal Home Loan Banks and the Federal Farm Credit Banks. All GSE Security debt is sponsored but not guaranteed by the Federal government, whereas government agencies such as Government National Mortgage Association ("Ginnie Mae") are divisions of the United States government whose securities are backed by the full faith and credit of the United States.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

ABS Securities will provide for monthly or quarterly distributions of interest. Neither the Treasury Securities or GSE Securities will make periodic payments of interest.⁸ The Exchange represents that, to alleviate this cash flow timing issue, the Trust will enter into an interest distribution agreement (“Interest Distribution Agreement”) as described in the prospectus supplement related to the ABS Securities (“Prospectus Supplement”).⁹ Principal distributions on the ABS Securities are expected to be made on dates that correspond to the maturity dates of the Underlying Securities, (*i.e.*, the Underlying Corporate Bonds and Treasury Securities or GSE Securities). However, some of the Underlying Securities may have redemption provisions and in the event of an early redemption or other liquidation (*e.g.*, upon an event of default) of the Underlying Securities, the proceeds from such redemption (including any make-whole premium associated with such redemption) or liquidation will be distributed pro rata to the holders of the ABS Securities. Each Underlying Corporate Bond will be issued by a corporate issuer and purchased in the secondary market.

In the case of Treasury Securities, the Trust will either purchase the securities directly from primary dealers or in the secondary market, which consists of primary dealers, non-primary dealers, customers, financial institutions, non-financial institutions and individuals. Similarly, in the case of GSE Securities, the Trust will either purchase the securities directly from the issuer or in the secondary market.

Holders of the ABS Securities generally will receive interest on the face value in an amount to be determined at the time of issuance of the ABS Securities and disclosed to investors. The rate of interest payments will be based upon prevailing interest rates at the time of issuance and made to the extent that coupon payments are received from the Underlying Securities. Distributions of interest will be made monthly or quarterly. Investors will also

be entitled to be repaid the principal of their ABS Securities from the proceeds of the principal payments on the Underlying Securities.¹⁰ The payout or return to investors on the ABS Securities will not be leveraged.

The ABS Securities will mature on the latest maturity date of the Underlying Securities. Holders of the ABS Securities will have no direct ability to exercise any of the rights of a holder of an Underlying Corporate Bond; however, holders of the ABS Securities as a group will have the right to direct the Trust in its exercise of its rights as holder of the Underlying Securities.

The proposed ABS Securities are virtually identical to a product currently listed and traded on the Exchange.¹¹ The only difference being the actual Underlying Securities in the basket of investment grade fixed-income securities. Accordingly, the Exchange proposes to provide for the listing and trading of the ABS Securities where the Underlying Securities meet the Exchange’s Bond and Debenture Listing Standards set forth in section 104 of the Amex Company Guide. The Exchange represents that all of the Underlying Securities in the proposed basket will meet or exceed these listing standards.

The Exchange’s Bond and Debenture Listing Standards in section 104 of the Company Guide provide for the listing of individual bond or debenture issuances provided the issue has an aggregate market value or principal amount of at least \$5 million and any of: (1) The issuer of the debt security has equity securities listed on the Exchange (or on the New York Stock Exchange (“NYSE”) or on the Nasdaq National Market (“Nasdaq”)); (2) an issuer of equity securities listed on the Exchange (or on the NYSE or on the Nasdaq) directly or indirectly owns a majority interest in, or is under common control with, the issuer of the debt security; (3) an issuer of equity securities listed on the Exchange (or on the NYSE or on the Nasdaq) has guaranteed the debt security; (4) an NRSRO has assigned a

current rating to the debt security that is no lower than an S&P Corporation (“S&P”) “B” rating or equivalent rating by another NRSRO; or (5) if no NRSRO has assigned a rating to the issue, an NRSRO has currently assigned (i) an investment grade rating to an immediately senior issue or (ii) a rating that is no lower than a S&P “B” rating or an equivalent rating by another NRSRO to a *pari passu* or junior issue.

In addition to the Exchange’s Bond and Debenture Listing Standards, an Underlying Security must also be of investment grade quality as rated by an NRSRO and at least 75% of the underlying basket is required to contain Underlying Securities from issuances of \$100 million or more. The maturity of each Underlying Security is expected to match the payment of principal of the ABS Securities with the maturity date of the ABS Securities being the latest maturity date of the Underlying Securities. Amortization of the ABS Securities will be based on (1) the respective maturities of the Underlying Securities, including Treasury Securities or GSE Securities, (2) principal payout amounts reflecting the pro-rata principal amount of maturing Underlying Securities, and (3) any early redemption or liquidation of the Underlying Securities, including Treasury Securities or GSE Securities.

Investors will be able to obtain the prices for the Underlying Securities through Bloomberg L.P. or other market vendors, including the broker-dealer through whom the investor purchased the ABS Securities.¹² In addition, The Bond Market Association (“TBMA”) provides links to price and other bond information sources on its investor web site at <http://www.investinginbonds.com>. Transaction prices and volume data for the most actively traded bonds on the exchanges are also published daily in newspapers and on a variety of financial websites. The National Association of Securities Dealers, Inc. (“NASD”) Trade Reporting and Compliance Engine (“TRACE”) also will help investors obtain transaction information for most corporate debt securities, such as investment grade corporate bonds.¹³ For a fee, investors

⁸ A stripped fixed income security, such as a Treasury Security or GSE Security, is a security that is separated into its periodic interest payments and principal repayment. The separate strips are then sold individually as zero coupon securities providing investors with a wide choice of alternative maturities.

⁹ Pursuant to the Interest Distribution Agreement, shortfalls in the amounts available to pay monthly or quarterly interest to holders of the ABS Securities due to the Underlying Securities paying interest semi-annually will be made to the Trust by JP Morgan Chase Bank or one of its affiliates and will be repaid out of future cash flow received by the Trust from the Underlying Securities.

¹⁰ The Underlying Securities may drop out of the basket upon maturity or upon payment default or acceleration of the maturity date for any default other than payment default. See Prospectus for a schedule of the distribution of interest and of the principal upon maturity of each Underlying Security and for a description of payment default and acceleration of the maturity date.

¹¹ See Securities Exchange Act Release Nos. 48312 (August 8, 2003), 68 FR 48970 (August 15, 2003) (SR-Amex-2003-69); 47884 (May 16, 2003), 68 FR 28305 (May 23, 2003) (SR-Amex-2003-37); 47730 (April 24, 2003), 68 FR 23340 (May 1, 2003) (SR-Amex-2003-25); 46923 (November 27, 2002), 67 FR 72247 (December 4, 2002) (SR-Amex-2002-92); and 46835 (November 14, 2002), 67 FR 70271 (November 21, 2002) (SR-Amex-2002-70).

¹² The prices of Underlying Securities generally will be determined by one or more market makers in accordance with applicable law and Exchange’s rules.

¹³ See Securities Exchange Act Release No. 43873 (January 23, 2001), 66 FR 8131 (January 29, 2001). Investors are able to access TRACE information at <http://www.nasdbondinfo.com/>.

can have access to intra-day bellwether quotes.¹⁴

Price and transaction information for Treasury Securities and GSE Securities may also be obtained at <http://publicdebt.treas.gov> and <http://www.govpx.com>, respectively. Price quotes are also available to investors via proprietary systems such as Bloomberg, Reuters and Dow Jones Telerate. Valuation prices¹⁵ and analytical data may be obtained through vendors such as Bridge Information Systems, Muller Data, Capital Management Sciences, Interactive Data Corporation and Barra.

The ABS Securities will be listed in \$1,000 denominations with the Exchange's existing debt floor trading rules applying to trading. First, pursuant to Amex Rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the ABS Securities.¹⁶ Second, the ABS Securities will be subject to the debt margin rules of the Exchange.¹⁷ Third, the Exchange will, prior to trading the ABS Securities, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the ABS Securities and highlighting the special risks and characteristics of the ABS Securities. With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the ABS Securities: (1) To determine that such transaction is suitable for the customer, and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of such transaction.

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the ABS Securities. Specifically, the Amex will rely on its existing surveillance procedures governing debt, which have

¹⁴ Corporate prices are available at 20-minute intervals from Capital Management Services at <http://www.bondvu.com/>.

¹⁵ "Valuation Prices" refer to an estimated price that has been determined based on an analytical evaluation of a bond in relation to similar bonds that have traded. Valuation prices are based on bond characteristics, market performance, changes in the level of interest rates, market expectations and other factors that influence a bond's value.

¹⁶ Amex Rule 411 requires that every member, member firm or member corporation use due diligence to learn the essential facts, relative to every customer and to every order or account accepted.

¹⁷ See Amex Rule 462.

been deemed adequate under the Act. In addition, the Exchange also has a general policy, which prohibits the distribution of material, non-public information by its employees.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6 of the Act¹⁸ in general and furthers the objectives of section 6(b)(5)¹⁹ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange did not receive any written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the File No. SR-Amex-2003-92 and should be submitted by December 12, 2003.

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b)(5) of the Act.²⁰ The Commission finds that this proposal is similar to several approved equity-linked instruments currently listed and traded on the Amex.²¹ Accordingly, the Commission finds that the listing and trading of the ABS Securities is consistent with the Act and will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, protect investors and the public interest consistent with section 6(b)(5) of the Act.²²

As described more fully above, the ABS securities are asset-backed securities and represent a repackaging of the Underlying Corporate Bonds together with the addition of either Treasury Securities or GSE Securities, subject to certain distribution of interest obligations of the Trust. The ABS Securities are not leveraged instruments. The ABS Securities are debt instruments whose price will still be derived and based upon the value of the Underlying Securities. The Exchange represents that the value of the Underlying Securities will be determined by one or more market makers, in accordance with Exchange rules. Investors are guaranteed at least the principal amount that they paid for the Underlying Securities. In addition, each of the Underlying Corporate Bonds will pay interest on a semi-annual basis while the ABS securities themselves will pay interest on a monthly or quarterly basis, pursuant to the Interest Distribution Agreement. Neither the Treasury Securities or GSE Securities will make periodic payments of interest.²³ In addition, the ABS securities will mature on the latest maturity date of the Underlying Securities.²⁴ However, due to the pass-

²⁰ *Id.*m

²¹ See *supra* note 11.

²² 15 U.S.C. 78f(b)(5). In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²³ See *supra* note 8.

²⁴ The Commission notes, however, that the Exchange has represented that the Underlying Securities may drop out of the basket upon maturity

through nature of the ABS Securities, the level of risk involved in the purchase or sale of the ABS Securities is similar to the risk involved in the purchase or sale of traditional common stock.

The Commission notes that the Exchange's rules and procedures that address the special concerns attendant to the trading of hybrid securities will be applicable to the ABS Securities. In particular, by imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Commission believes the Exchange has addressed adequately the potential problems that could arise from the hybrid nature of the ABS Securities. Moreover, the Commission notes that the Exchange will distribute a circular to its membership calling attention to the specific risks associated with the ABS Securities.

The Commission notes that the ABS Securities are dependent upon the individual credit of the issuers of the Underlying Securities. To some extent this credit risk is minimized by the Exchange's listing standards in section 107A of the Company Guide which provide that only issuers satisfying asset and equity requirements may issue securities such as the ABS Securities. In addition, the Exchange's "Other Securities" listing standards further provide that there is no minimum holder requirement if the securities are traded in thousand dollar denominations.²⁵ The Commission notes that the Exchange has represented that the ABS Securities will be listed in \$1000 denominations with its existing debt floor trading rules applying to the trading. In any event, financial information regarding the issuers of the Underlying Securities will be publicly available.²⁶

Due to the pass-through and passive nature of the ABS Securities, the Commission does not object to the Exchange's reliance on the assets and stockholder equity of the Underlying Securities rather than the Trust to meet the requirement in section 107A of the Company Guide. The Commission notes that the distribution and principal amount/aggregate market value

or upon payment default or acceleration of the maturity date for any default other than payment default. See Prospectus for a schedule of the distribution of interest and of the principal upon maturity of each Underlying Security and for a description of payment default and acceleration of the maturity date. Telephone conversation between Jeffrey P. Burns, Assistant General Counsel, Amex, and Ronesha A. Butler, Attorney, Division, Commission, on November 12, 2003.

²⁵ See Company Guide section 107A.

²⁶ The ABS Securities will be registered under section 12 of the Act.

requirements found in sections 107A(b) and (c), respectively, will otherwise be met by the Trust as issuer of the ABS Securities. Thus, the ABS Securities will conform to the initial listing guidelines under section 107A and continued listing guidelines under sections 1001–1003 of the Company Guide, except for the assets and stockholder equity characteristics of the Trust. At the time of issuance, the Commission also notes that the ABS Securities will receive an investment grade rating from an NRSRO.

The Commission also believes that the listing and trading of the ABS Securities should not unduly impact the market for the Underlying Securities or raise manipulative concerns. As discussed more fully above, the Exchange represents that, in addition to requiring the issuers of the Underlying Securities meet the Exchange's section 107A listing requirements (in the case of Treasury securities, the Exchange will rely on the fact that the issuer is the U.S. Government rather than the asset and stockholder tests found in section 107A), the Underlying Securities will be required to meet or exceed the Exchange's Bond and Debenture Listing Standards pursuant to section 104 of the Amex's Company Guide, which among other things, requires that underlying debt instrument receive at least an investment grade rating of "B" or equivalent from an NRSRO. Furthermore, at least 75% of the basket is required to contain Underlying Securities from issuances of \$100 million or more. The Amex also represents that the basket of Underlying Securities will not be managed and will remain static over the term of the ABS securities. In addition, the Amex's surveillance procedures will serve to deter as well as detect any potential manipulation.

The Commission notes that the investors may obtain price information on the Underlying Securities through market vendors such as Bloomberg, L.P., or through websites such as <http://www.investinginbonds.com> (for Underlying Corporate Bonds) and <http://publicdebt.treas.gov> and <http://www.govpx.com> (for Treasury Securities and GSE Securities, respectively).

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Amex has requested accelerated approval because this product is similar to several other asset-backed instruments currently

listed and traded on the Amex.²⁷ The Commission believes that the ABS Securities will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the ABS Securities promptly. Additionally, the ABS Securities will be listed pursuant to Amex's existing hybrid security listing standards as described above. Based on the above, the Commission believes that there is good cause, consistent with sections 6(b)(5) and 19(b)(2) of the Act²⁸ to approve the proposal on an accelerated basis.

V. Conclusion

Is it therefore ordered, pursuant to section 19(b)(2) of the Act,²⁹ that the proposed rule change (SR-Amex-2003-92) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³⁰

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-29153 Filed 11-20-03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48796; File No. SR-FICC-2003-10]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Fixed Income Clearing Corporation's Cross-Margining Agreements With the Chicago Mercantile Exchange, BrokerTec Clearing Company, and the Board of Trade Clearing Corporation and To Eliminate the Cross-Margining Agreement With the New York Clearing Corporation

November 17, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on October 6, 2003, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by FICC. The Commission is publishing this notice to

²⁷ See *supra* note 11.

²⁸ 15 U.S.C. 78f(b)(5) and 78s(b)(2).

²⁹ 15 U.S.C. 78o-3(b)(6) and 78s(b)(2).

³⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FICC is seeking to amend its cross-margining agreements with the Chicago Mercantile Exchange ("CME"), BrokerTec Clearing Company ("BCC"), and the Board of Trade Clearing Corporation ("BOTCC") and to eliminate its cross-margining agreement with the New York Clearing Corporation ("NYCC").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.²

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. New Cross-Margining Agreement With CME

Through its Government Securities Division ("GSD"), FICC has a cross-margining arrangement with CME.³ FICC is proposing to terminate its existing cross-margining agreement with CME and to enter into a new cross-margining agreement with the CME ("New FICC-CME Agreement") to reflect the fact that, as of January 2, 2004, the CME will begin clearing certain Treasury and Agency futures contracts and options on futures contracts that are traded on the Chicago Board of Trade ("CBOT") and are currently cleared by BOTCC. Under the New FICC-CME Agreement, the FICC products that will be eligible for cross-margining will be Treasury securities that fall into the GSD's offset classes A through G and GCF Repo Treasury securities with equivalent remaining maturities and non-mortgage-backed Agency securities that fall into the GSD's offset classes e and f and GCF Repo non-mortgage-backed Agency

securities with equivalent remaining maturities. The CME products that will be eligible for cross-margining will be of two types: (i) the products currently eligible under the existing arrangement between FICC and CME which are Eurodollar futures contracts with ranges in maturity from 3 months to 10 years and options on such future contracts cleared by CME and (ii) the CBOT products which are Two-Year Treasury Note Futures contracts and options thereon, Five-Year Treasury Note Futures contracts and options thereon, Ten-Year Treasury Note Futures contracts and options thereon, Thirty-Year Treasury Bond Futures contracts and options thereon, Five-Year Agency Note Futures contracts and options thereon, and Ten-Year Agency Note Futures contracts and options thereon to be cleared by CME.

No significant changes are being proposed to the existing FICC-CME cross-margining arrangement other than the addition of the CBOT products and certain FICC products as discussed in more detail below. The key aspects of the cross-margining arrangement, most notably, the calculation of the cross-margining reduction and the loss sharing provisions in the event of a participant default are not being amended.

2. Key Proposed Changes to the Existing Cross-Margining Agreement Between FICC and CME

The addition of the CBOT products has necessitated new definitions for "CBOT Eligible Products," "CME Eligible Products," and "FICC Eligible Products," as well as Offset Class tables for these products in Appendix B of the agreement.

Appendix B of the FICC-CME Agreement is also being amended to include FICC's GCF Repo Treasury and non-mortgage-backed Agency products in the cross-margining arrangement.⁴ By the effective date of the New FICC-CME Agreement, FICC will be margining its GCF Repo Treasury and non-mortgage-backed Agency products based upon the specific underlying collateral, as opposed to the current system of margining these products based upon the longest maturity of eligible underlying collateral.⁵ Therefore, these

⁴ This amendment is also being proposed with respect to the GCF Repo Treasury products and the BCC cross-margining arrangement as discussed below.

⁵ Because of a previous inability to obtain timely data on the actual instruments posted in support of GCF Repo positions, the GSD has calculated affected members' Clearing Fund requirements based upon the assumption that collateral providers have assigned to each generic CUSIP the most volatile (*i.e.*, the longest maturity) collateral eligible.

GCF Repo products can now be included in the cross-margining arrangement because they will no longer be margined at a generic rate but rather at a specific rate based on the actual underlying Treasury and Agency collateral.

As is the case with the current agreement between FICC and CME, the parties provide in the New FICC-CME Agreement that they will agree from time to time in a separate writing on the disallowance factors that will be used in the cross-margining arrangement. The disallowance factors that will be used upon implementation of the new arrangement are the ones set forth as examples in Appendix B to the New FICC-CME Agreement. The disallowance factors between FICC eligible products and CME eligible products (*i.e.*, Eurodollar products) have not changed. A new disallowance factor table has been added for cross-margining of FICC eligible Treasury and Agency products with CBOT Treasury and Agency eligible products.⁶

Appendix C of the current agreement which sets forth the methodology for converting CME eligible products into Treasury cash equivalents for purposes of ultimately calculating the cross-margining reduction has been made into Appendix C1 and a new Appendix C2 has been added which contains the methodology for converting the CBOT eligible products into Treasury cash equivalents. This is identical to the methodology contained in the BOTCC and BCC cross-margining agreements.

The existing agreement between FICC and CME provides for a "Maximization Payment" which is a cross-guaranty provision that sets forth a mechanism for a clearing organization with a remaining surplus after all guaranty payments in relation to cross-margining have been made ("Aggregate Net Surplus") to distribute funds to one or more cross-margining partners with remaining losses. The New FICC-CME Agreement will make it clear that: (i) The Maximization Payment is also a guaranty payment (albeit outside of cross-margining, arising out of the "Maximization Payment Guaranty") and (ii) the defaulting member would have a reimbursement obligation with respect to such payment ("Maximization

The GSD has been in the process of developing improvements to the current margining methodology. By the effective date of the proposed rule change, the GSD will be able to identify the specific CUSIP posted in calculating a member's Clearing Fund requirement related to its Treasury and Agency GCF Repo activity.

⁶ FICC has computed and tested disallowance factors that will be applicable to each potential pair of positions being offset.

² The Commission has modified the text of the summaries prepared by FICC.

³ Securities Exchange Act Release No. 44301 (May 11, 2001), 66 FR 28207 (May 22, 2001) [File No. SR-GSCC-00-13].

Reimbursement Obligation"). This means that should a clearing organization become obligated to pay the Maximization Payment, it may rely on the defaulting member's collateral to do so.⁷

A provision has been added to the New FICC–CME Agreement to take into account that a regulator or other entity having supervisory authority over FICC or CME may for safety and soundness purposes direct the clearing organization not to liquidate a defaulting member or to partially liquidate such member. In order to prevent the affected clearing organization from being penalized under the agreement for failing to liquidate or partially liquidating the member in this type of situation, the last two paragraphs of section 7(d) of the New FICC–CME Agreement will provide that the affected clearing organization would be deemed to have a cross-margin gain equal to the base amount of the guaranty (*i.e.*, cross-margining reduction) or a pro rated amount of the base amount of the guaranty in a partial liquidation scenario.

A sentence has been added to section 7(h) making clear that the clearing organizations have security interests in the "Aggregate Net Surplus," a large component of which would be the collateral and proceeds of positions of a defaulting member, as security for any reimbursement obligation including any maximization reimbursement obligation that may arise on the part of a defaulting member.

Language has been added to the cross-margining participant agreements in Appendices D and E in order to further protect the clearing organizations by making clear that the clearing organizations have a security interest in the Aggregate Net Surplus and that a participant will have a reimbursement obligation in the event that a clearing organization becomes obligated to make a maximization payment. Participants in the current arrangement between FICC and CME and those in the arrangement between FICC and BOTCC to the extent they are not the same are being asked to reexecute the revised participant

agreements in order to make them subject to the provisions of the New FICC–CME Agreement.⁸

3. Key Proposed Changes to FICC's Cross-Margining of CBOT Products

Because FICC is currently cross-margining its products with certain CBOT products pursuant to its agreement with BOTCC and because these CBOT products will be cross-margining pursuant to the proposed New FICC–CME Agreement if the proposed rule change is approved by the Commission, it is important to note the key differences between the cross-margining of the CBOT products under the existing arrangement with BOTCC and under the proposed new arrangement with the CME.

The minimum margin factor under FICC's cross-margining arrangement with BOTCC is 50 percent. FICC and CME have agreed to a minimum margin factor of 25 percent to apply to the cross-margining of CBOT products versus FICC products. This is the same minimum margin factor as is used in the current cross-margining arrangement with the CME with respect to the eligible Eurodollar products and is the same minimum margin factor used in the arrangement with BCC.

The New FICC–CME Agreement provides for inter-offset class cross-margining whereas the BOTCC arrangement is limited to intra-offset class cross-margining. The new agreement is consistent with the approach in the existing arrangements between FICC and both CME and BCC.

The current agreement between FICC and CME provides that in order to determine the gain or loss from the liquidation of the positions that were cross-margining resulting from a default of a member, only the proceeds from the side of the market that was offset pursuant to the agreement at the last margin cycle are considered. In the New FICC–CME Agreement, this approach will be extended to the CBOT products in order to provide consistency in the liquidation methods.

4. Amendments 1, 2, and 3 to the FICC–BCC cross-margining agreement

FICC is proposing to amend its cross-margining agreement with BCC⁹ with Amendment 3 to the agreement. Amendment 3 will (i) add FICC's GCF Repo Treasury and non-mortgage-backed Agency products to the arrangement, (ii) add FICC's non-mortgage-backed Agency offset classes e and f, and (iii) amend the contingency procedures between the clearing organizations (contained in Appendix I of the agreement) to provide that FICC will not wait past 12 a.m. Eastern time for the BCC cross-margining file in order to run its cross-margining system. With respect to (ii), FICC has determined that even though BCC does not currently clear non-mortgage-backed Agency futures, the parties can still cross-margin FICC's Agency products against BCC's Treasury products given that the agreement provides for inter-offset class cross-margining using the appropriate correlation factors. With respect to (iii), the operational procedures provide that FICC will wait until 3 a.m. Eastern time for the BCC file which is the same cut-off time for all of its other cross-margining partners. However, FICC has determined that the 3 a.m. Eastern time cut-off, which is significantly later than the GSD's normal cross-margining processing time, should only be used for extreme situations where not including a particular file would be disruptive to members. Currently, this would not be anticipated to be the case for a BCC file because of BCC's files relatively low historical impact.¹⁰ Therefore, FICC has determined that it would be more prudent from a risk management perspective to adopt a cut-off time of 12 a.m. Eastern time for receipt of BCC files.

As part of this proposed rule change filing, FICC would like to include Amendments 1 and 2 that were previously made with respect to its existing cross-margining agreement with BCC. The purpose of Amendment 1 was to update the list of products being cross-margining. The purposes of Amendment 2 were to remove

⁷ The new guaranty provisions with respect to the Maximization Payment Guaranty will be identical to the ones in the current cross-margining agreement between FICC and BCC. In order to protect the clearing organizations in the event that a court determines that any amount of a Maximization Reimbursement Obligation may not be recovered by the clearing organization that made a Maximization Payment pursuant to a Maximization Payment Guaranty, a provision has been added (Section 8C(c)) to the New FICC–CME Agreement to provide that the payee clearing organization will be expected to return that amount. This protective provision is also in the BCC cross-margining agreement.

⁸ Cross-margining is available to any FICC GSD netting member (with the exception of inter-dealer broker netting members) that is, or that has an affiliate that is, a member of a Participating CO. The FICC member (and its affiliate, if applicable) sign an agreement under which it (or they) agree to be bound by the cross-margining agreement between FICC and the Participating CO and which allows FICC or the Participating CO to apply the member's (or its affiliate's) margin collateral to satisfy any obligation of FICC to the Participating CO (or vice versa) that results from a default of the member (or its affiliate). Ownership of 50 percent or more of the common stock of an entity indicates control of the entity for purposes of the definition of "affiliate."

⁹ Securities Exchange Act Release No. 45656 (March 27, 2002), 67 FR 15646 (April 2, 2002) [File No. SR–GSCC–2002–01].

¹⁰ The operational and contingency procedures contained in the FICC–BCC agreement provide that in the event FICC does not receive BCC's file by the cut-off time, FICC will calculate the applicable cross-margining reductions assuming that BCC submitted a file with no positions available for cross-margining which may result in margin calls for the affected participants by both FICC and BCC. These margin calls would not be disruptive to members because the cross-margining reductions in the program with the BCC are not anticipated to be large amounts.

references to the cross-margining agreement with NYCC from Appendix A in which the parties are required to list other outstanding cross-margining arrangements and to update the notice provision.

5. Amendments 1 and 2 to the FICC–BOTCC Cross-Margining Agreement

As in the case of the BCC agreement, FICC would like to include as part of this proposed rule change filing Amendments 1 and 2 that were previously made with respect to its existing cross-margining arrangement with BOTCC.¹¹ The purposes of Amendment 1 were to update the list of products being cross-margined, add an appendix setting forth operational contingency procedures, clarify procedures to be used if one clearing organization discovers a calculation error, correct cited Bankruptcy Code language, correct language in one of the participant agreements, and refine the timing of the effectiveness of changes to the cross-margining reduction. The purpose of Amendment 2 was to remove references to the cross-margining agreement with NYCC from Appendix A.

6. Removal of NYCC Cross-Margining Agreement From the GSD's Rules

FICC is proposing to remove its cross-margining agreement with NYCC¹² from the GSD's rules. That arrangement has been dormant for some time and the parties have agreed that should they determine to reinstitute cross-margining, they will enter into a new cross-margining agreement that will be similar to FICC's other cross-margining agreements. At that time, FICC would file the appropriate proposed rule change with the Commission.

FICC believes that the proposed rule change is consistent with the requirements of section 17A of the Act¹³ and the rules and regulations thereunder applicable to FICC because it will facilitate the safeguarding of securities and funds which are in its custody or control or for which it is responsible and in general will protect

¹¹ FICC currently has a cross-margining agreement in place with BOTCC through which certain CBOT products are cross-margined with certain FICC products. Securities Exchange Act Release No. 45335 (January 25, 2002), 67 FR 4768 (January 31, 2001) [File No. SR–GSCC–2001–03]. BOTCC recently announced that it will become the clearing corporation for Eurex. In the next few weeks, FICC will determine the status of its cross-margining arrangement with BOTCC and will submit a proposed rule change filing addressing changes to the existing agreement, if necessary.

¹² Securities Exchange Act Release No. 41766 (August 19, 1999), 64 FR 46737 (August 26, 1999) [File No. SR–GSCC–98–04].

¹³ 15 U.S.C. 78q–1.

investors and the public interest by continuing FICC's cross-margining program which provides members with significant benefits, such as greater liquidity and more efficient use of collateral in a prudent manner, and enhances FICC's overall risk management process.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments relating to the proposed rule change have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or;

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR–FICC–2003–10. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed

rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of FICC and at <http://www.ficc.com>.

All submissions should refer to File No. SR–FICC–2003–10 and should be submitted by December 12, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 03–29085 Filed 11–20–03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48772; File No. SR–NYSE–2003–30]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Extension of the Pilot for the Exchange's Automatic Execution Facility for Certain Limit Orders (NYSE Direct+)

November 12, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b–4 thereunder,² notice is hereby given that on October 8, 2003, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to extend until December 23, 2004, the effectiveness of the pilot for NYSE Direct+ (the

¹⁴ 17 CFR 200.30–3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

“Pilot”).³ The Pilot was initially approved on a one-year basis and was twice extended for additional one-year periods, for a total of two years ending December 23, 2003.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Direct+ was originally approved as a one-year pilot ending on December 21, 2001.⁴ The Exchange then extended the Pilot for an additional one-year period, ending December 23, 2002.⁵ The Pilot was subsequently extended for an additional one-year period, ending December 23, 2003.⁶

The NYSE Direct+ pilot provides for the automatic execution of limit orders of 1099 shares or less (“auto ex” orders) against trading interest reflected in the Exchange’s published quotation. It is not mandatory that all limit orders of 1099 shares be entered as auto ex orders; rather, the member organization entering the order, or its customer if enabled by the member organization, can choose to enter an auto ex order when such member organization (or customer) believes that the speed and certainty of an execution at the Exchange’s published bid or offer price is in its customer’s best interest.

The Exchange proposes to extend the Pilot for an additional year until December 23, 2004. Four filings that impact NYSE Direct+ have been approved by the Commission during the

current Pilot and are now part of the Pilot.⁷ These include:

(a) A filing that (i) amended NYSE Rule 1000 to provide that NYSE Direct+ executions will not be available if the resulting trade would be more than five cents away from the last sale; and (ii) provided that during the process for completing NYSE Rule 127 transactions, the specialist should publish a bid and/or offer that is more than five cents away from the last reported transaction price in the subject security on the Exchange;⁸

(b) A filing that (i) amended NYSE Rule 13 to provide for a one-year pilot program (also expiring on December 23, 2003) to expand Direct+ order size eligibility (for up to 5,000 shares) for Exchange-Traded Funds (“ETFs”) and Holding Company Depository Receipts (“HOLDRs”); (ii) amended NYSE Rule 1002 to include ETFs and HOLDRs and provide that ETFs trade until 4:15 p.m.; and (iii) amended NYSE Rule 1005 to reflect that the rule applies to ETFs and HOLDRs;⁹

(c) A filing that amended NYSE Rule 1005 to permit entry of limit orders up to 1,099 shares within 30 seconds for an account in which the same person has an interest, provided that the orders are entered from different terminals and that the member or member organization responsible for the entry of the orders to the trading floor has procedures to monitor compliance with the separate terminal requirement;¹⁰ and

(d) A filing that amended NYSE Rules 1000 and 1001 in connection with the NYSE LiquidityQuote initiative.¹¹ In conjunction with autoquoting of bids and offers, NYSE Rule 1000 has been amended to provide that an NYSE Direct+ order equal to or greater than the size of the published bid/offer exhausts the entire bid/offer, rather than decreasing it to 100 shares as was the case initially under the pilot. NYSE Rule 1001(c) provided that if executions of auto ex orders have traded with all

trading interest reflected in the Exchange’s published bid or offer, the Exchange will disseminate a bid or offer at that price of 100 shares until the specialist requotes that market. NYSE Rule 1001(c) has been deleted.

The above-mentioned filings became part of the NYSE Direct+ rules and were incorporated into the Pilot upon their respective approvals by the Commission. Therefore, if the Commission approves the extension of the Pilot for an additional year, they are extended as part of the Pilot.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under section 6(b)(5)¹² that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of section 11A(a)(1)¹³ in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors’ orders in the best market and provide an opportunity for investors’ orders to be executed without the participation of a dealer.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five

⁷ In addition, SR-NYSE-2003-20 proposed to disengage NYSE Direct+ in five-actively traded stocks. However, this pilot expired on June 20, 2003 and therefore, does not impact the Pilot as proposed to be extended. See Securities Exchange Act Release No. 47965 (June 2, 2003), 68 FR 34691 (June 10, 2003) (SR-NYSE-2003-20).

⁸ See Securities Exchange Act Release No. 47463 (March 7, 2003), 68 FR 12122 (March 13, 2003) (SR-NYSE-2002-44).

⁹ See Securities Exchange Act Release No. 47024 (December 18, 2002), 67 FR 79217 (December 27, 2002) (SR-NYSE-2002-37).

¹⁰ See Securities Exchange Act Release No. 47353 (February 12, 2003), 68 FR 8318 (February 20, 2003) (SR-NYSE-2002-58).

¹¹ See Securities Exchange Act Release No. 47614 (April 2, 2003), 68 FR 17140 (April 8, 2003) (SR-NYSE-2002-55).

¹² 15 U.S.C. 78f(b)(5).

¹³ 15 U.S.C. 78k-1(a)(1).

³ See NYSE Rules 1000-1005, 13, and 476A.

⁴ See Securities Exchange Act Release No. 43767 (December 22, 2000), 66 FR 834 (January 4, 2001) (SR-NYSE-2000-18).

⁵ See Securities Exchange Act Release No. 45331 (January 24, 2002), 67 FR 5024 (February 1, 2002) (SR-NYSE-2001-50).

⁶ See Securities Exchange Act Release No. 46906 (November 25, 2002), 67 FR 72260 (December 4, 2002) (SR-NYSE-2002-47).

business days prior to filing, or such shorter time as designated by the Commission, it has become effective pursuant to section 19(b)(3)(A) of the Act¹⁴ and Rule 19b-4(f)(6)¹⁵ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-2003-30 and should be submitted by December 12, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-29152 Filed 11-20-03; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3547]

State of Maryland (Amendment #2)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective November 14, 2003, the above

numbered declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to December 8, 2003.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is June 21, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 13, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03-29156 Filed 11-20-03; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3545]

State of North Carolina (Amendment #4)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective November 13, 2003, the above numbered declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to December 8, 2003.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is June 18, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 13, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03-29157 Filed 11-20-03; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice No. 4300]

Advisory Committee on Historical Diplomatic Documentation; Notice of Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet in the Department of State, 2201 "C" Street NW., Washington, DC, December 8-9, 2003, in Conference Rooms 6909 and 7516. Prior notification and a valid government-issued photo ID (such as driver's license, passport, U.S. government or military ID) are required for entrance into the building. Members of the public planning to attend must

notify Gloria Walker, Office of the Historian (202-663-1124) no later than November 24, 2003 to provide date of birth, valid government-issued photo identification number and type (such as driver's license number/state, passport number/country, or U.S. government ID number/agency or military ID number/branch), and relevant telephone numbers. If you cannot provide one of the enumerated forms of ID, please consult with Gloria Walker for acceptable alternative forms of picture identification.

The Committee will meet in open session from 1:30 p.m. through 3 p.m. on Monday, December 8, 2003, in Room 6906 to discuss declassification and transfer of Department of State records to the National Archives and Records Administration and the status of the Foreign Relations series. The remainder of the Committee's sessions from 3:15 p.m. until 4:30 p.m. on Monday, December 8, 2003, and 9 a.m. until 1 p.m. on Tuesday, December 9, 2003, will be closed in accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463). The agenda calls for discussions of agency declassification decisions concerning the Foreign Relations series and other declassification issues. These are matters not subject to public disclosure under 5 U.S.C. 552b(c)(1) and the public interest requires that such activities be withheld from disclosure.

Questions concerning the meeting should be directed to Marc J. Susser, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC, 20520, telephone (202) 663-1123, (e-mail history@state.gov).

Dated: November 12, 2003.

Marc J. Susser,

Executive Secretary, Department of State.

[FR Doc. 03-29159 Filed 11-20-03; 8:45 am]

BILLING CODE 4710-11-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST 2003-16110]

Order Granting Exemption

AGENCY: Department of Transportation.

ACTION: Notice of order granting exemption (Order 2003-11-9).

SUMMARY: The Department of Transportation has granted an application by the International Air Transport Association (IATA) to permit IATA to implement certain resolutions

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6). The Exchange requested and the Commission agreed to waive the five-day pre-filing period.

¹⁶ 17 CFR 200.30-3(a)(12).

and recommended practices of its worldwide Cargo Services Conference (CSC), without filing the resolutions and recommended practices for prior approval by the Department and without obtaining immunity from the U.S. antitrust laws.

FOR FURTHER INFORMATION CONTACT: Mr. John Kiser or Ms. Della Wilson, Pricing & Multilateral Affairs Division (X-43, Room 6424), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, 202-366-2432.

Dated: November 17, 2003.

Michael W. Reynolds,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 03-29148 Filed 11-20-03; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34430]

San Pedro Railroad Operating Company, LLC—Acquisition and Operation Exemption—SWKR Operating Co. Inc.

San Pedro Railroad Operating Company, LLC (SPROC),¹ a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire all of SWKR Operating Co., Inc.'s (SWKR) interest in and to operate: (a) Those rail lines extending from approximately milepost N 1033.008 (at or near Benson, AZ) to approximately milepost NA 1055.8 (at or near Charleston, AZ);² (b) the assets and rail banked common carrier rights in that segment of the Douglas Branch extending from approximately milepost NA 1055.8 to approximately milepost NA 1106.5 (at or near Douglas, AZ), and in the Bisbee Branch, extending from approximately milepost NB 1085.0 (at or near Bisbee Junction, AZ) to approximately milepost NB 1090.4 (at or near Bisbee, AZ); and (c) certain other miscellaneous assets. The subject line and all related properties are located wholly within Cochise County, AZ.³

¹ SPROC is a wholly owned subsidiary of Arizona Railroad Group, LLC, which does not currently own any other railroads.

² The milepost designation changes at Fairbank, AZ, from milepost N 1050.57 to milepost NA 1046.39.

³ In *SWKR Operating Co., Inc.—Abandonment Exemption—In Cochise County, AZ*, Docket No. AB-441 (Sub-Nos. 1X, 2X, and 3X), SWKR obtained exemptions to abandon three line segments that comprise a portion of the interests acquired by SPROC in this proceeding. SWKR has not, however, consummated abandonment of any of the three segments—two which remain subject to trail use

SPROC certifies that its projected annual revenues will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not projected to exceed \$5 million.

The transaction was scheduled to be consummated on or after October 31, 2003, the effective date of the exemption (7 days after the notice was filed).

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34430, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Troy W. Garris, Weiner Brodsky Sidman Kider PC, 1300 19th Street, NW., Fifth Floor, Washington, DC 20036-1609.

Board decisions and notices are available on our Web site at "www.stb.dot.gov."

Decided: November 14, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03-29140 Filed 11-20-03; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34433]

Soo Line Railroad Company—Trackage Rights Exemption—Wisconsin & Southern Railroad Company

Pursuant to a trackage rights agreement between Soo Line Railroad Company, d/b/a Canadian Pacific Railway Company (CPR) and Wisconsin & Southern Railroad Company (WSOR), WSOR has agreed to grant CPR trackage rights over a line of railroad between milepost 132.11 in Watertown, Jefferson County, WI, and milepost 164.61 in Madison, Dane County, WI, a distance of 32.5 miles.¹

agreements and a third which is the subject of a recent SWKR request that the decision granting the abandonment exemption authority be vacated.

¹ A redacted unexecuted version of the trackage rights agreement between CPR and WSOR was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for protective order. CPR states that when a fully executed copy of the agreement

The transaction was scheduled to be consummated on or after November 10, 2003.

The purpose of the trackage rights is to allow CPR to continue to operate over the line that is being sold to WSOR.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34433, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Diane P. Gerth, Leonard, Street and Deinard Professional Association, 150 South Fifth St., Minneapolis, MN 55402.

Board decisions and notices are available on our Web site at "www.stb.dot.gov."

Decided: November 17, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03-29141 Filed 11-20-03; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-55 (Sub-No. 643X)]

CSX Transportation, Inc.—Abandonment Exemption—in LaPorte, Porter and Starke Counties, IN

On November 3, 2003, CSX Transportation, Inc. (CSXT), filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon an approximately 32.97-mile line of railroad, in CSXT's Western Region, Chicago Division, Wabash Subdivision, extending from milepost CF 0.63, at LaCrosse, to milepost CF 15.23, at Wellsboro, and from milepost CI 212.55,

is available, it will be filed with the Board. A protective order is being served on November 18, 2003.

at North Judson, to milepost CI 230.92, at Malden, in LaPorte, Porter and Starke Counties, IN. The line traverses U.S. Postal Service Zip Codes 46340, 46348, 46366, 46382, 46383, and 46390, and includes stations at Malden, LaCrosse, and North Judson.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by February 20, 2004.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,100 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than December 11, 2003. Each trail use request must be accompanied by a \$150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-55 (Sub-No. 643X) and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001; and (2) Natalie S. Rosenberg, Senior Counsel, 500 Water Street—J150, Jacksonville, FL 32202. Replies to the petition are due on or before December 11, 2003.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who

commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: November 17, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 03-29142 Filed 11-20-03; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 157X)]¹

Union Pacific Railroad Company— Abandonment Exemption—In Monterey County, CA

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon a 13.1-mile line of railroad (the Seaside Industrial Lead) extending from milepost 110.2 near Castroville, CA, to the end of the line at milepost 123.3 near Seaside, CA, in Monterey County, CA.² The line traverses United States Postal Service Zip Codes 95012 and 93955.

UP has certified that: (1) No local traffic has moved over the line for at

¹ This notice of exemption supersedes the Board's notice served and published in *Union Pacific Railroad Company—Discontinuance of Trackage Rights Exemption—in Monterey County, CA*, STB Docket No. AB-33 (Sub-No. 157X) (STB served Oct. 10, 2003) (68 FR 58748-49).

² On October 10, 2003, UP filed this revised notice of exemption, as supplemented on November 3, 2003, to take the place of the notice that it had previously filed on September 22, 2003. UP states that it has determined that initially it should have filed to abandon its interest in the line, rather than merely to discontinue trackage rights because, under the purchase and sale agreement with the Transportation Agency for Monterey County (TAMC), UP reserved an exclusive railroad easement for freight operations over the line. UP now seeks to abandon its entire right and obligation to provide service over the line. UP submits that the terms of the easement specifically provide that the easement shall terminate automatically upon the effective date of a decision by the Board granting UP abandonment authority and UP's satisfaction of any Board-imposed conditions. According to UP, the line was sold to TAMC effective September 12, 2003. See *Transportation Agency for Monterey County—Acquisition Exemption—Line of Union Pacific Railroad Company*, STB Finance Docket No. 34405 (STB served Oct. 3, 2003).

least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 23, 2003, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁴ must be filed by December 1, 2003. Petitions to reopen must be filed by December 11, 2003,⁵ with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

UP has filed an environmental report which addresses the abandonment's

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

⁴ Each OFA must be accompanied by the filing fee, which currently is set at \$1,100. See 49 CFR 1002.2(f)(25).

⁵ Because the line has already been sold to TAMC, a public agency, to conduct passenger service, requests for trail use/rail banking under 49 CFR 1152.29 and public use under 49 CFR 1152.28 would not be appropriate here.

effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 28, 2003. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental and historic preservation conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by November 21, 2004, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on the Board's Web site at WWW.STB.DOT.GOV.

Decided: November 10, 2003.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 03-28755 Filed 11-20-03; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form T

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form T, Forest Activities Schedule.

DATES: Written comments should be received on or before January 20, 2004 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622-6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Forest Activities Schedules.

OMB Number: 1545-0007.

Form Number: Form T.

Abstract: Form T is filed by individuals and corporations to report income and deductions from the operation of a timber business. The IRS uses Form T to determine if the correct amounts of income and deductions are claimed.

Current Actions: There are no changes being made to the Form T at this time.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 37,000.

Estimated Time Per Respondent: 34 hr., 43 min.

Estimated Total Annual Burden Hours: 1,284,640.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the

information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 17, 2003.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 03-29166 Filed 11-20-03; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG-251698-96]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG-251698-96 (TD 8869), Subchapter S Subsidiaries (§§ 1.1361-3, 1.1361-5, and 1.1362-8).

DATES: Written comments should be received on or before January 20, 2004, to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, at (202) 622-6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Subchapter S Subsidiaries.

OMB Number: 1545-1590.

Regulation Project Number: REG-251698-96.

Abstract: This regulation relates to the treatment of corporate subsidiaries of S corporations and interprets the rules added to the Internal Revenue Code by

section 1308 of the Small Business Job Protection Act of 1996. The collection of information required in the regulation is necessary for a taxpayer to obtain, retain, or terminate S corporation treatment.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, individuals, and farms.

Estimated Number of Respondents: 10,660.

Estimated Time per Respondent: 57 minutes.

Estimated Total Annual Reporting Burden Hours: 10,110.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 17, 2003.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 03-29167 Filed 11-20-03; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR-236-81]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, LR-236-81 (TD 8251), Credit for Increasing Research Activity (§ 1.41-8(d)).

DATES: Written comments should be received on or before January 20, 2004, to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Larnice Mack at (202) 622-3179, or Larnice.Mack@irs.gov, or Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Credit for Increasing Research Activity.

OMB Number: 1545-0732.

Regulation Project Number: LR-236-81.

Abstract: This regulation provides rules for the credit for increasing research activities. Internal Revenue Code section 41(f) provides that commonly controlled groups of taxpayers shall compute the credit as if they are single taxpayer. The credit allowed to a member of the group is a portion of the group's credit. Section 1.41-8(d) of the regulation permits a corporation that is a member of more than one group to designate which controlled group they will be aggregated with for purposes of Code section 41(f).

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 250.

Estimated Time Per Respondent: 15 hrs.

Estimated Total Annual Burden Hours: 63.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 13, 2003.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 03-29170 Filed 11-20-03; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4506

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this

opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4506 Request for Copy or Transcript of Tax Form.

DATES: Written comments should be received on or before January 20, 2004 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at, (202) 622-6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Request for Copy or Transcript of Tax Form.

OMB Number: 1545-0429.

Form Number: Form 4506.

Abstract: Internal Revenue Code section 7513 allows taxpayers to request a copy of a tax return or related documents. Form 4506 is used for this purpose. The information provided will be used for research to locate the tax form and to ensure that the requestor is the taxpayer or someone authorized by the taxpayer to obtain the documents requested.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, farms, and Federal, state, local, or tribal governments.

Estimated Number of Respondents: 914,540.

Estimated Time Per Respondent: 1 hr., 2 min.

Estimated Total Annual Burden Hours: 941,977.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 17, 2003.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 03-29168 Filed 11-20-03; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG-209835-86]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG-209835-86 (TD 8708), Computation of Foreign Taxes Deemed Paid Under Section 902 Pursuant to a Pooling Mechanism for Undistributed Earnings and Foreign Taxes (§ 1.902-1).

DATES: Written comments should be received on or before January 20, 2004, to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue

Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the regulation should be directed to Allan Hopkins, at (202) 622-6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION: Title: Computation of Foreign Taxes Deemed Paid Under Section 902 Pursuant to a Pooling Mechanism for Undistributed Earnings and Foreign Taxes.

OMB Number: 1545-1458.

Regulation Project Number: Reg-209835-86 (formerly INTL-933-86).

Abstract: This regulation provides rules for computing foreign taxes deemed paid under Internal Revenue Code section 902. The regulation affects foreign corporations and their United States corporate shareholders that own directly at least 10% of the voting stock of the foreign corporation.

Current Actions: There are no changes being made to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

The burden for the collection of information is reflected in the burden for Form 1118, Foreign Tax Credit-Corporations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection

techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 17, 2003.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 03-29169 Filed 11-20-03; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

Scientific Review and Evaluation Board for Health Services Research and Development Service, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92-463, Federal Advisory Committee Act, that a meeting of the Scientific Review and Evaluation Board for Health Services Research and Development Service, will be held at the Bahia Hotel, 998 West Mission Bay Drive, San Diego, California, from January 20-23, 2003. The Investigator Initiated Research and Service Directed Project (IIR/SDP)

reviews will convene from 8 a.m.-5 p.m. on Wednesday, January 21 and Thursday, January 22, 2004. The Nursing Research Initiative (NR) review will convene on Friday, January 23, 2004, from 8 a.m.-12 noon.

The purpose of the Board is to review research and development applications concerned with the measurement and evaluation of health care services and with testing new methods of health care delivery and management, and nursing research. Applications are reviewed for scientific and technical merit. Recommendations regarding funding are prepared for the Chief Research and Development Officer.

On January 20, 2004, the meeting will be open to the public for approximately one half-hour from 7 p.m. until 7:30 p.m. to cover administrative matters and to discuss the general status of the program. The remaining portion of the meeting on January 20-23, 2004 will be closed. The closed portion of the meeting involves discussion, examination, reference to, and oral review of staff and consultant critiques of research protocols and similar documents. During this portion of the meeting, discussion and recommendations will include

qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would be likely to compromise significantly the implementation of proposed agency action regarding such research projects).

As provided by subsection 10(d) of Public Law 92-463, as amended by Public Law 94-409, closing portions of these meetings is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Those who plan to attend the open session should contact the Assistant Director, Scientific Review (124F), Health Services Research and Development Service, Department of Veterans Affairs, 1722 Eye Street, NW., Washington, DC, at least five days before the meeting. For further information, call (202) 254-0207.

Dated: November 17, 2003.

By Direction of the Secretary.

E. Philip Riffin,

Committee Management Officer.

[FR Doc. 03-29108 Filed 11-20-03; 8:45 am]

BILLING CODE 8320-01-M

Corrections

Federal Register

Vol. 68, No. 225

Friday, November 21, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 11 and 25

RIN 3150-AH30

Assessment of Access Authorization Fees

Correction

In rule document 03-27804 beginning on page 62509 in the issue of Wednesday, November 5, 2003, make the following corrections:

§11.15 [Corrected]

1. On pages 62511 and 62512, in §11.15(e)(2), in the table, the heading

“The NRC application fee for an access authorization type * * *” should read “The NRC application fee for an access authorization of type * * *”.

Appendix A to Part 25 [Corrected]

2. On pages 62512 and 62513, in Appendix A to Part 25, in the table, the heading “The NRC application fee for an access authorization type * * *” should read “The NRC application fee for an access authorization of type * * *”.

[FR Doc. C3-27804 Filed 11-20-03; 8:45 am]

BILLING CODE 1505-01-D



Federal Register

**Friday,
November 21, 2003**

Part II

Department of Health and Human Services

**Substance Abuse and Mental Health
Services Administration**

**Notice of Final Grants Announcements;
Notices**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Final Changes to SAMHSA's Discretionary Grant Announcements

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of final changes to SAMHSA's Discretionary Grant announcements.

SUMMARY: On August 21, 2003, the Substance Abuse and Mental Health Services Administration (SAMHSA) announced plans to change its approach to announcing and soliciting applications for its discretionary grant programs in Fiscal Year (FY) 2004. These changes involved the publication of four standard grant announcements that would provide the basic program design and application instructions for four types of grants "Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. The four announcements were made available for public review and comment for 60 days, with the comment period closing on October 20, 2003. This notice describes the comments received on the draft standard grant announcements and changes made to the standard grant announcements. This notice is followed by four notices that provide the final text for SAMHSA's four standard grant announcements.

Authority: Sections 509, 516, and 520A of the Public Health Service Act.

DATES: Use of the standard grant announcement will be effective November 21, 2003. The standard grant announcements must be used in conjunction with separate Notices of Funding Availability (NOFAs) that will provide application due dates and other key dates for specific SAMHSA grant funding opportunities.

ADDRESSES: Questions about SAMHSA's standard grant announcements may be directed to Cathy Friedman, M.A., Office of Policy, Planning and Budget, 5600 Fishers Lane, Room 12C-26, Rockville, Maryland, 20857. Fax: (301-594-6159) E-mail: cfriedma@samhsa.gov.

FOR FURTHER INFORMATION CONTACT: Cathy Friedman, M.A., Office of Policy, Planning and Budget, 5600 Fishers Lane, Room 12C-26, Rockville, Maryland, 20857. Fax: (301-594-6159) E-mail: cfriedma@samhsa.gov. Phone: (301) 443-1910.

SUPPLEMENTARY INFORMATION: Starting in FY 2004, SAMHSA is changing its approach to announcing and soliciting applications for its discretionary grants. SAMHSA will publish four standard grant announcements that will describe the general program design and provide application instructions for four types of grants—Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. These standard grant announcements will be posted on SAMHSA's Web page and will be available from SAMHSA's clearinghouses on an ongoing basis. The standard announcements will be used in conjunction with brief Notices of Funding Availability (NOFAs) that will announce the availability of funds for specific grant funding opportunities within each of the standard grant programs (e.g., Homeless Treatment grants, Statewide Family Network grants, HIV/AIDS and Substance Abuse Prevention Planning Grants, etc.).

The Notices of Funding Availability (NOFAs) announcing the availability of funds for specific grant funding opportunities will be published separately in the **Federal Register**, and posted on the Federal grants Web site (www.grants.gov) and on the SAMHSA Web site (www.samhsa.gov). The NOFAs will:

- Identify any specific target population or issue for the specific grant funding opportunity,
- Identify which of the four standard announcements applicants must use to prepare their applications,
- Specify total funding available for the first year of the grants and the expected size and number of awards,
- Specify the application deadline,
- Note any specific program requirements for each funding opportunity, and
- Include any limitations or exceptions to the general provisions in the standard announcement.

Applicants will need to have both the NOFA and the appropriate standard announcement to prepare their applications. Both documents will be provided, along with application materials, in the application kits available from SAMHSA's clearinghouses as well as on SAMHSA's Web site.

SAMHSA anticipates that the four standard grant announcements will be used for the majority of its grant funding opportunities. However, there will be some funding opportunities that do not fit the standard announcements. In those instances, separate stand-alone grant announcements will be published and provided to applicants as they have

been in the past (*i.e.*, in the **Federal Register**, on the SAMHSA Web site, on the Federal grants Web site, and through SAMHSA's clearinghouses).

SAMHSA published the draft standard grant announcements in the **Federal Register** for public review and comment on August 21, 2003. SAMHSA received over 50 comments on the standard grant announcements, along with numerous requests for additional information about how the standard grant announcements would function. The vast majority of the comments were positive, indicating that the proposed process could be helpful to applicants in laying the groundwork for their applications prior to the announcement of specific funding opportunities. At the same time, commentors identified several areas where the announcements could be clarified and strengthened. The following are key themes expressed in the comments received on the standard grant announcements:

- *Cultural Competence and Consumer Participation*—Several commentors expressed concern that the standard grant announcements did not clearly require applicants to address cultural competence and consumer participation. This has been a hallmark of SAMHSA grant announcements and many commentors were concerned that these important values appeared to have been lost. SAMHSA has revised the standard grant announcements to more explicitly address cultural competence in each of the standard grant announcements, particularly in the requirements for the Project Narrative of the applications.

- *Clarification of the Evidence Standard*—While commentors generally agreed that it was important to require evidence-based practices in the Services Grants and Best Practices Planning and Implementation (BPPI) Grants announcements, they did not feel that the evidence standard articulated in the draft announcements was clear.

—Commentors requested that SAMHSA clarify to what extent practices could be adapted/modified and that SAMHSA require applicants to justify the use of the practice for the target population. SAMHSA agrees that this is critical and has, therefore, deleted the "two-level" review that was initially proposed for Services and BPPI grants. Instead, the justification of the evidence-based practice has been incorporated as a scored item in the Project Narrative. Applicants will be required not only to provide evidence that the practice is effective, but also to justify its use for the target population and justify any

adaptations/modifications to the practice.

—Commentors requested that SAMHSA clarify what, precisely, applicants had to say to justify the evidence-base for a practice selected from among those SAMHSA has already determined to have met the evidence standard. This has been clarified in the revised announcements. Some commentors requested that SAMHSA limit evidence-based practices to only those documented in the peer-reviewed literature. SAMHSA had considered this standard in early (*i.e.*, pre-publication) drafts of the announcements and decided not to do so, because there are relatively few practices that have been well-researched and documented for a wide variety of target populations and in a wide-variety of settings.

—Many commentors requested that SAMHSA provide a definition of the “recognized experts” whose opinions (in the form of consensus documents) may be considered acceptable evidence of effectiveness in situations where there is little/no research-based evidence of effectiveness. Some commentors wanted to see a very broad definition, while others wanted SAMHSA to delete consensus documents as acceptable evidence of effectiveness. SAMHSA has retained consensus documents as acceptable evidence of effectiveness, but has clarified that “local recognition of an individual as a respected or influential person at the community level is not considered a ‘recognized expert’ for this purpose.”

- *Clarify Government Performance and Results Act (GPRA) and Performance Measurement Requirements*—The draft announcements included preliminary GPRA/performance indicators, and many comments were received requesting clarification of the data collection requirements that would accompany these preliminary GPRA/performance indicators. This work is still under development. Therefore, SAMHSA has deleted reference to the draft indicators in the standard grant announcements. The data collection and performance measurement requirements for each funding opportunity will be specified in the NOFA. SAMHSA expects to issue modified standard grant announcements once the performance indicators and related data collection requirements are finalized.

- *Award Criteria*—Some commentors expressed concern about the award criterion limiting awards to no more than two per States. SAMHSA has

revised the award criteria to be more flexible and indicate that SAMHSA will consider a “balance of awards in terms of geography (including urban, rural and remote settings), target populations, and program size.”

- *Ensure adequate application period*—Commentors requested that SAMHSA distribute publication of NOFAs and receipt dates throughout the Fiscal Year in order to minimize the burden on applicants. While this is not an issue that is directly addressed in the standard grant announcements, SAMHSA does intend to distribute publication of NOFAs and receipt dates throughout the Fiscal Year. SAMHSA expects that one benefit of publishing brief NOFAs for each funding opportunity (rather than full Requests for Application) is that SAMHSA will be able to provide applicants with more time to prepare their applications.

- *Submission of Documentation that Projects are Consistent with State Priorities*—Reaction to this requirement was mixed among commentors. While many commentors felt that it was a positive requirement, others were concerned about the feasibility of meeting the requirement and/or the burden on the State. SAMHSA has modified the requirement to include documentation that projects are consistent with State or county priorities.

- *Tribal Comments*—SAMHSA received comments from several tribal organizations towards the end of the comment period. Many of them requested additional time to prepare their comments. However, because the timely publication of the FY 2004 NOFAs depends on timely finalization and publication of the standard grant announcements by the end of November 2003, SAMHSA was not able to extend the comment period. SAMHSA has attempted to incorporate the comments received into the standard grant announcements and will work with tribal organizations to address other comments in future versions of the standard grant announcements. While SAMHSA intends the grants to be available on an on-going basis, it is likely that SAMHSA will need to make some adjustments for FY 2005, based on the first year of experience in FY 2004. SAMHSA therefore declined to extend the comment period.

- *Minor Technical Edits*—SAMHSA received numerous comments regarding minor technical edits on the standard grant announcements. SAMHSA has incorporated those comments where possible.

SAMHSA greatly appreciates the interest and support expressed by the

field in the comments on the standard grant announcements. The comments received were very helpful in clarifying and finalizing the announcements, and SAMHSA is hopeful that the final standard grant announcements will help potential applicants prepare applications for SAMHSA’s FY 2004 grant funding opportunities.

Dated: November 13, 2003.

Daryl Kade,

Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.

[FR Doc. 03–28873 Filed 11–20–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Final Standard Services Grants Announcement

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of final Services Grants announcement.

SUMMARY: On August 21, 2003, the Substance Abuse and Mental Health Services Administration (SAMHSA) announced plans to change its approach to announcing and soliciting applications for its discretionary grant programs in Fiscal Year (FY) 2004. These changes involved the publication of four standard grant announcements that would provide the basic program design and application instructions for four types of grants—Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. The four announcements were made available for public review and comment for 60 days. The comments received and changes made to the standard grant announcements are described in a separate **Federal Register** notice. This notice provides the final text for SAMHSA’s standard Services Grants announcement.

Authority: Sections 509, 516, and 520A of the Public Health Service Act.

DATES: Use of the standard Services Grants announcement will be effective November 21, 2003. The standard Services Grants announcement must be used in conjunction with separate Notices of Funding Availability (NOFAs) that will provide application due dates and other key dates for specific SAMHSA grant funding opportunities.

ADDRESSES: Questions about SAMHSA's standard Services Grants announcement may be directed to Cathy Friedman, M.A., Office of Policy, Planning and Budget, 5600 Fishers Lane, Room 12C-26, Rockville, Maryland, 20857. Fax: (301-594-6159) E-mail: cfriedma@samhsa.gov.

FOR FURTHER INFORMATION CONTACT: Cathy Friedman, M.A., Office of Policy, Planning and Budget, 5600 Fishers Lane, Room 12C-26, Rockville, Maryland, 20857. Fax: (301-594-6159) E-mail: cfriedma@samhsa.gov. Phone: (301) 443-1910.

SUPPLEMENTARY INFORMATION: Starting in FY 2004, SAMHSA is changing its approach to announcing and soliciting applications for its discretionary grants.

SAMHSA will publish four standard grant announcements that will describe the general program design and provide application instructions for four types of grants—Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. The text for the final standard Services Grants announcement is provided below.

The standard Services Grants announcement will be posted on SAMHSA's Web page (www.samhsa.gov) and will be available from SAMHSA's clearinghouses on an ongoing basis. The standard announcements will be used in conjunction with brief Notices of Funding Availability (NOFAs) that will

announce the availability of funds for specific grant funding opportunities within each of the standard grant programs (e.g., Homeless Treatment grants, Statewide Family Network grants, HIV/AIDS and Substance Abuse Prevention Planning Grants, etc.).

Services Grants—SVC 04 (Initial Announcement)

Catalogue of Federal Domestic Assistance (CFDA) No.: 93.243 (unless otherwise specified in a NOFA in the **Federal Register** and on www.grants.gov).

Authority: Sections 509, 516 and/or 520A of the Public Health Service Act, as amended, and subject to the availability of funds (unless otherwise specified in a NOFA in the **Federal Register** and on www.grants.gov).

KEY DATES

Application Deadline	This Program Announcement provides general instructions and guidelines for multiple funding opportunities. Application deadlines for specific funding opportunities will be published in Notices of Funding Availability (NOFAs) in the FEDERAL REGISTER and on www.grants.gov .
Intergovernmental Review (E.O. 12372)	Letters from State Single Point of Contact (SPOC) are due no later than 60 days after application deadline.
Public Health System Impact Statement (PHSIS)/Single State Agency Coordination.	Applicants must send the PHSIS to appropriate State and local health agencies by application deadline. Comments from Single State Agency are due no later than 60 days after application deadline.

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I. Funding Opportunity Description

A. Introduction

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces its intent to solicit applications for Services Grants. These grants will expand and strengthen effective, culturally appropriate substance abuse and mental health services at the State and local levels. The services implemented through SAMHSA's Services Grants must incorporate the best objective information available regarding effectiveness and acceptability. In general, the services implemented through SAMHSA's Services Grants will have strong evidence of effectiveness. However, because the evidence base is limited in some areas, SAMHSA may fund some services for which the evidence base, while limited, is sound. SAMHSA expects that the services funded through these grants will be sustained by the grantee beyond the term of the grant.

SAMHSA also funds grants under three other standard grant announcements:

- *Infrastructure Grants* support identification and implementation of systems changes but are not designed to fund services.
- *Best Practices Planning and Implementation Grants* help communities and providers identify practices to effectively meet local needs, develop strategic plans for implementing/adapting those practices and pilot-test practices prior to full-scale implementation.
- *Service to Science Grants* document and evaluate innovative practices that address critical substance abuse and mental health service gaps but that have not yet been formally evaluated.

This announcement describes the general program design and provides application instructions for all SAMHSA Services Grants. The availability of funds for specific Services Grants will be announced in supplementary Notices of Funding Availability (NOFAs) in the **Federal Register** and at www.grants.gov—the Federal grant announcement Web page.

Typically, funding for Services Grants will be targeted to specific populations and/or issue areas, which will be specified in the NOFAs. The NOFAs will also:

- Specify total funding available for the first year of the grants and the expected size and number of awards;
- Provide the application deadline;
- Note any specific program requirements for each funding opportunity; and

- Include any limitations or exceptions to the general provisions in this announcement (e.g., eligibility, allowable activities).

It is, therefore, critical that you consult the NOFA as well as this announcement in developing your grant application.

B. Expectations

The Services Grant program is designed to address gaps in substance abuse and mental health services and/or to increase the ability of States, units of local government, Indian tribes, tribal organizations and governments, and community- and faith-based organizations to help specific populations or geographic areas with serious, emerging mental health and substance abuse problems. SAMHSA intends that its Services Grants result in the delivery of services as soon as possible and no later than 4 months after award. SAMHSA's Services Grants may include substance abuse prevention, substance abuse treatment and/or mental health services. Throughout this announcement, SAMHSA will use the term "services" to refer to all three types of services. The NOFA will provide guidance on the particular type of service to be provided through each funding opportunity.

1. Documenting the Evidence-Base for Services To Be Implemented

The services implemented through SAMHSA's Services Grants must incorporate the best objective information available regarding the effectiveness and acceptability of the services to be implemented. In general, the services implemented through SAMHSA's Services Grants will have strong evidence of effectiveness. However, because the evidence base is limited in some areas, SAMHSA may fund some services for which the evidence of effectiveness is based on formal consensus among recognized experts in the field and/or evaluation studies that have not been published in the peer reviewed literature.

Applicants must document in their applications that the services/practices they propose to implement are evidence-based services/practices. In addition, applicants must justify use of the proposed services/practices for the target population along with any adaptations or modifications necessary

to meet the unique needs of the target population or otherwise increase the likelihood of achieving positive outcomes. Further guidance on each of these requirements is provided below.

Documenting the Evidence-Based Practice/Service. SAMHSA has already determined that certain services/practices are solidly evidence-based services/practices and encourages applicants to select services/practices from following sources (though this is not required):

- SAMHSA's National Registry of Effective Programs (NREP) (*see Appendix C*)
- Center for Mental Health Services (CMHS) Evidence Based Practice Tool Kits (*see Appendix D*)
- List of Effective Substance Abuse Treatment Practices (*see Appendix E*)
- Additional practices identified in the NOFA for a specific funding opportunity, if applicable

Applicants proposing services/practices that are not included in the above-referenced sources must provide a narrative justification that summarizes the evidence for effectiveness and acceptability of the proposed service/practice. The preferred evidence of effectiveness and acceptability will include the findings from clinical trials, efficacy and/or effectiveness studies published in the peer-reviewed literature.

In areas where little or no research has been published in the peer-reviewed scientific literature, the applicant may present evidence involving studies that have not been published in the peer-reviewed research literature and/or documents describing formal consensus among recognized experts. If consensus documents are presented, they must describe consensus among multiple experts whose work is recognized and respected by others in the field. Local recognition of an individual as a respected or influential person at the community level is not considered a "recognized expert" for this purpose.

In presenting evidence in support of the proposed service/practice, applicants must show that the evidence presented is the best objective information available.

Justifying Selection of the Service/Practice for the Target Population. Regardless of the strength of the evidence-base for the service/practice, all applicants must show that the proposed service/practice is appropriate for the proposed target population. Ideally, this evidence will include research findings on effectiveness and acceptability specific to the proposed target population. However, if such evidence is not available, the applicant

should provide a justification for using the proposed service/practice with the target population. This justification might involve, for example, a description of adaptations to the proposed service/practice based on other research involving the target population.

Justifying Adaptations/Modifications of the Proposed Service/Practice. SAMHSA has found that a high degree of faithfulness or "fidelity" (see Glossary) to the original model for an evidence-based service/practice increases the likelihood that positive outcomes will be achieved when the model is used by others. Therefore, SAMHSA encourages fidelity to the original evidence-based service/practice to be implemented. However, SAMHSA recognizes that adaptations or modifications to the original model may be necessary for a variety of reasons:

- To allow implementers to use resources efficiently
- To adjust for specific needs of the client population
- To address unique characteristics of the local community where the service/practice will be implemented

All applicants must describe and justify any adaptations or modifications to the proposed service/practice that will be made.

2. Services Delivery

SAMHSA's Services Grant funds must be used primarily to support direct services, including the following types of activities:

- Conducting outreach and pre-service strategies to expand access to treatment or prevention services to underserved populations. If you propose to provide only outreach and pre-service strategies, you must show that your organization is an effective and integral part of a network of service providers.
- Purchasing or providing direct treatment (including screening, assessment, and care management) or prevention services for populations at risk. Treatment must be provided in outpatient, day treatment or intensive outpatient, or residential programs.
- Purchasing or providing "wrap-around" services (see Glossary) (e.g., child care, vocational, educational and transportation services) designed to improve access and retention.
- Collecting data using specified tools and standards to measure and monitor treatment or prevention services and costs. (No more than 20% of the total grant award may be used for data collection and evaluation.)

3. Infrastructure Development (maximum 15% of total grant award)

Although SAMHSA expects that its Services Grant funds will be used primarily for direct services, SAMHSA recognizes that infrastructure changes may be needed to support service delivery expansion in some instances. You may use up to 15% of the total Services Grant award for the following types of infrastructure development, if necessary to support the direct service expansion of the grant project.

- Building partnerships to ensure the success of the project and entering into service delivery and other agreements.
- Developing or changing the infrastructure to expand treatment or prevention services.
- Training to assist treatment or prevention providers and community support systems to identify and address mental health or substance abuse issues.

4. Data and Performance Measurement

The Government Performance and Results Act of 1993 (Pub. L. 103-62, or "GPRA") requires all Federal agencies to set program performance targets and report annually on the degree to which the previous year's targets were met.

Agencies are expected to evaluate their programs regularly and to use results of these evaluations to explain their successes and failures and justify requests for funding.

To meet the GPRA requirements, SAMHSA must collect performance data (*i.e.*, "GPRA data") from grantees. Grantees are required to report these GPRA data to SAMHSA on a timely basis.

Specifically, grantees will be required to provide data on a set of required measures, as specified in the NOFA. The data collection tools to be used for reporting the required data will be provided in the application kits distributed by SAMHSA's clearinghouses and posted on SAMHSA's Web site along with each NOFA. In your application, you must demonstrate your ability to collect and report on these measures, and you may be required to provide some baseline data.

The terms and conditions of the grant award also will specify the data to be submitted and the schedule for submission. Grantees will be required to adhere to these terms and conditions of award.

Applicants should be aware that SAMHSA is working to develop a set of required core performance measures for each of SAMHSA's standard grants (*i.e.*, Services Grants, Infrastructure Grants, Best Practices Planning and

Implementation Grants, and Service-to-Science Grants). As this effort proceeds, some of the data collection and reporting requirements included in SAMHSA's NOFAs may change. All grantees will be expected to comply with any changes in data collection requirements that occur during the grantee's project period.

5. Grantee Meetings

You must plan to send a minimum of two people (including the Project Director) to at least one joint grantee meeting in each year of the grant, and you must include funding for this travel in your budget. At these meetings, grantees will present the results of their projects and Federal staff will provide technical assistance. Each meeting will be 3 days. These meetings will usually be held in the Washington, DC, area, and attendance is mandatory.

6. Evaluation

Grantees must evaluate their projects, and you are required to describe your evaluation plans in your application. The evaluation should be designed to provide regular feedback to the project to improve services. The evaluation must include both process and outcome components. Process and outcome evaluations must measure change relating to project goals and objectives over time compared to baseline information. Control or comparison groups are not required. You must consider your evaluation plan when preparing the project budget.

Process components should address issues such as:

- How closely did implementation match the plan?
- What types of deviation from the plan occurred?
- What led to the deviations?
- What effect did the deviations have on the planned intervention and evaluation?
- Who provided (program, staff) what services (modality, type, intensity, duration), to whom (individual characteristics), in what context (system, community), and at what cost (facilities, personnel, dollars)?

Outcome components should address issues such as:

- What was the effect of treatment on participants?
- What program/contextual factors were associated with outcomes?
- What individual factors were associated with outcomes?
- How durable were the effects?

No more than 20% of the total grant award may be used for evaluation and data collection, including GPRA.

II. Award Information

A. Award Amount

The expected award amount for each funding opportunity will be specified in the NOFA. Typically, SAMHSA's Services Grant awards are expected to be about \$500,000 per year in total costs (direct and indirect) for up to 5 years. Awards may range as high as \$3.0 million per year in total costs (direct and indirect) for up to 5 years. Regardless of the award amount specified in the NOFA, the actual award amount will depend on the availability of funds.

Applications with proposed budgets that exceed the allowable amount specified in the NOFA in any year of the proposed project will be screened out and will not be reviewed. Annual continuation awards will depend on the availability of funds, grantee progress in meeting project goals and objectives, and timely submission of required data and reports.

B. Funding Mechanism

The NOFA will indicate whether awards for each funding opportunity will be made as grants or cooperative agreements (see the Glossary in Appendix B for further explanation of these funding mechanisms). For cooperative agreements, the NOFA will describe the nature of Federal involvement in project performance and specify roles and responsibilities of grantees and Federal staff.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants are domestic public and private nonprofit entities. For example, State, local or tribal governments; public or private universities and colleges; community- and faith-based organizations; and tribal organizations may apply. The statutory authority for this program prohibits grants to for-profit organizations. The NOFA will indicate any limitations on eligibility.

B. Cost-Sharing

Cost-sharing (see Glossary) is not required in this program, and applications will not be screened out on the basis of cost-sharing. However, you may include cash or in-kind contributions (see Glossary) in your proposal as evidence of commitment to the proposed project.

C. Other

1. Additional Eligibility Requirements

SAMHSA applicants must comply with certain program requirements, including:

- budgetary limitations as specified in Sections I, II, and IV–E of this document;
- documentation of nonprofit status as required in the PHS 5161–1;
- requirements relating to provider organization experience and provider organization certification and licensure, described below.

You also must comply with any additional program requirements specified in the NOFA, such as signature of certain officials on the face page of the application and/or required memoranda of understanding with certain signatories.

Applications that do not comply with the specific program requirements for the funding opportunity for which the application is submitted will be screened out and will not be reviewed.

2. Evidence of Experience and Credentials

SAMHSA believes that only existing, experienced, and appropriately credentialed organizations with demonstrated infrastructure and expertise will be able to provide required services quickly and effectively. Therefore, in addition to the basic eligibility requirements specified in this announcement, applicants must meet three additional requirements related to the provision of treatment or prevention services.

The three requirements are:

- A provider organization for direct client services (e.g., substance abuse treatment, substance abuse prevention, mental health services) appropriate to the grant must be involved in each application. The provider may be the applicant or another organization committed to the project. More than one provider organization may be involved;
- Each direct service provider organization must have at least 2 years experience providing services in the geographic area(s) covered by the application, as of the due date of the application; and
- Each direct service provider organization must comply with all applicable local (city, county) and State/tribal licensing, accreditation, and certification requirements, as of the due date of the application.

[**Note:** The above requirements apply to all service provider organizations. A license from an individual clinician will not be accepted in lieu of a provider organization's license.]

In Appendix 1 of the application, you must: (1) Identify at least one experienced, licensed service provider organization; (2) include a list of all direct service provider organizations that have agreed to participate in the proposed project, including the applicant agency if the applicant is a treatment or prevention service provider organization; and (3) include the Statement of Assurance (provided in Appendix F of this announcement), signed by the authorized representative of the applicant organization identified on the face-page of the application, that all participating service provider organizations:

- meet the 2-year experience requirement
- meet applicable licensing, accreditation, and certification requirements, and,
- if the application is within the funding range, will provide the Government Project Officer (GPO) with the required documentation within the time specified.

If Appendix 1 of the application does not contain items (1)-(3), the application will be considered ineligible and will not be reviewed.

In addition, if, following application review, an application's score is within the fundable range for a grant award, the GPO will call the applicant and request that the following documentation be sent by overnight mail:

- A letter of commitment that specifies the nature of the participation and what service(s) will be provided from every service provider organization that has agreed to participate in the project;
- Official documentation that all participating organizations have been providing relevant services for a minimum of 2 years before the date of the application in the area(s) in which the services are to be provided; and
- Official documentation that all participating service provider organizations comply with all applicable local (city, county) and State/tribal requirements for licensing, accreditation, and certification or official documentation from the appropriate agency of the applicable State/tribal, county, or other governmental unit that licensing, accreditation, and certification requirements do not exist.

If the GPO does not receive this documentation within the time specified, the application will be removed from consideration for an award and the funds will be provided to another applicant meeting these requirements.

IV. Application and Submission Information

To ensure that you have met all submission requirements, a checklist is provided for your use in Appendix A of this document.

A. Address To Request Application Package

You may request a complete application kit by calling one of SAMHSA's national clearinghouses:

- For substance abuse prevention or treatment grants, call the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1–800–729–6686.
- For mental health grants, call the National Mental Health Information Center at 1–800–789–CMHS (2647).

You also may download the required documents from the SAMHSA Web site at www.samhsa.gov. Click on "grant opportunities."

Additional materials available on this Web site include:

- A technical assistance manual for potential applicants;
- Standard terms and conditions for SAMHSA grants;
- Guidelines and policies that relate to SAMHSA grants (e.g., guidelines on cultural competence, consumer and family participation, and evaluation); and
- Enhanced instructions for completing the PHS 5161–1 application.

B. Content and Form of Application Submission

1. Required Documents

SAMHSA application kits include the following documents:

- PHS 5161–1 (revised July 2000)—Includes the face page, budget forms, assurances, certification, and checklist. Use the PHS 5161–1, unless otherwise specified in the NOFA. Applications that are not submitted on the required application form will be screened out and will not be reviewed.
- Program Announcement (PA)—Includes instructions for the grant application. This document is the PA.
- Notice of Funding Availability (NOFA)—Provides specific information about availability of funds, as well as any exceptions or limitations to provisions in the PA. The NOFAs will be published in the **Federal Register**, as well as on the Federal grants Web site (www.grants.gov).

You must use all of the above documents in completing your application.

2. Required Application Components

To ensure equitable treatment of all applications, SAMHSA will accept only

complete applications for review. In order for your application to be complete, it must include the required ten application components (Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist). Applications that do not contain the required components will be screened out and will not be reviewed.

- **Face Page**—Use Standard Form (SF) 424, which is part of the PHS 5161–1.

[Note: Beginning October 1, 2003, applicants will need to provide a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. SAMHSA applicants will be required to provide their DUNS number on the face page of the application. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access the Dun and Bradstreet Web site at www.dunandbradstreet.com or call 1–866–705–5711. To expedite the process, let Dun and Bradstreet know that you are a public/private nonprofit organization getting ready to submit a Federal grant application.]

- **Abstract**—Your total abstract should not be longer than 35 lines. In the first five lines or less of your abstract, write a summary of your project that can be used, if your project is funded, in publications, reporting to Congress, or press releases.

- **Table of Contents**—Include page numbers for each of the major sections of your application and for each appendix.

- **Budget Form**—Use SF 424A, which is part of the PHS 5161–1. Fill out Sections B, C, and E of the SF 424A.

- **Project Narrative and Supporting Documentation**—The Project Narrative describes your project. It consists of Sections A through E. Sections A–E together may not be longer than 30 pages. More detailed instructions for completing each section of the Project Narrative are provided in “Section V—Application Review Information” of this document.

The Supporting Documentation provides additional information necessary for the review of your application. This supporting documentation should be provided immediately following your Project Narrative in Sections F through I. There are no page limits for these sections, except for Section H, the Biographical Sketches/Job Descriptions.

- **Section F—Literature Citations.** This section must contain complete citations, including titles and all

authors, for any literature you cite in your application.

- **Section G—Budget Justification, Existing Resources, Other Support.** You must provide a narrative justification of the items included in your proposed budget, as well as a description of existing resources and other support you expect to receive for the proposed project. Be sure to show that no more than 15% of the total grant award will be used for infrastructure development and that no more than 20% of the total grant award will be used for data collection and evaluation, including GPRA.

- **Section H—Biographical Sketches and Job Descriptions.**

- Include a biographical sketch for the Project Director and other key positions. Each sketch should be 2 pages or less. If the person has not been hired, include a letter of commitment from the individual with a current biographical sketch.

- Include job descriptions for key personnel. Job descriptions should be no longer than 1 page each.

- Sample sketches and job descriptions are listed on page 22, Item 6 in the Program Narrative section of the PHS 5161–1.

- **Section I—Confidentiality and SAMHSA Participant Protection/Human Subjects.** Section VIII–A of this document describes requirements for the protection of the confidentiality, rights and safety of participants in SAMHSA-funded activities. This section also includes guidelines for completing this part of your application.

- **Appendices 1 through 5**—Use only the appendices listed below. Do not use more than 30 pages for Appendices 1, 3 and 4. There are no page limitations for Appendices 2 and 5. Do not use appendices to extend or replace any of the sections of the Project Narrative unless specifically required in the NOFA. Reviewers will not consider them if you do.

- **Appendix 1: Letters of commitment/support.** Identification of at least one experienced, licensed service provider organization. A list of all direct service provider organizations that have agreed to participate in the proposed project, including the applicant agency, if it is a treatment or prevention service provider organization. The Statement of Assurance (provided in Appendix F of this announcement) signed by the authorized representative of the applicant organization identified on the face page of the application, that assures SAMHSA that all listed providers meet the 2-year experience requirement, are appropriately licensed, accredited, and

certified, and that if the application is within the funding range for an award, the applicant will send the GPO the required documentation within the specified time.

- **Appendix 2: Data Collection Instruments/Interview Protocols**

- **Appendix 3: Sample Consent Forms**
- **Appendix 4: Letter to the SSA** (if applicable; see Section VIII-C of this document)

- **Appendix 5: A copy of the State or County Strategic Plan, a State or county needs assessment, or a letter from the State or county indicating that the proposed project addresses a State- or county-identified priority.**

- **Assurances—Non-Construction Programs.** Use Standard Form 424B found in PHS 5161–1. Some applicants will be required to complete the Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations Form SMA 170. If this assurance applies to a specific funding opportunity, it will be posted on SAMHSA’s web site with the NOFA and provided in the application kits available at SAMHSA’s clearinghouse (NCADI).

- **Certifications**—Use the “Certifications” forms found in PHS 5161–1.

- **Disclosure of Lobbying Activities**—Use Standard Form LLL found in the PHS 5161–1. Federal law prohibits the use of appropriated funds for publicity or propaganda purposes, or for the preparation, distribution, or use of the information designed to support or defeat legislation pending before the Congress or State legislatures. This includes “grass roots” lobbying, which consists of appeals to members of the public suggesting that they contact their elected representatives to indicate their support for or opposition to pending legislation or to urge those representatives to vote in a particular way.

- **Checklist**—Use the Checklist found in PHS 5161–1. The Checklist ensures that you have obtained the proper signatures, assurances and certifications and is the last page of your application.

3. Application Formatting Requirements

Applicants also must comply with the following basic application requirements. Applications that do not comply with these requirements will be screened out and will not be reviewed.

- Text must be legible.
- Paper must be white and 8.5” by 11.0” in size.
- Pages must be typed single-spaced with one column per page.
- Page margins must be at least one inch.

- Type size in the Project Narrative cannot exceed an average of 15 characters per inch when measured with a ruler. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

- Photo reduction or condensation of type cannot be closer than 15 characters per inch or 6 lines per inch.

- Pages cannot have printing on both sides.

- Page limitations specified for the Project Narrative and Appendices cannot be exceeded.

- Information provided must be sufficient for review.

To facilitate review of your application, follow these additional guidelines:

- Applications should be prepared using black ink. This improves the quality of the copies of applications that are provided to reviewers.

- Do not use heavy or light-weight paper or any material that cannot be photocopied using automatic photocopying machines. Odd-sized and oversized attachments, such as posters, will not be copied or sent to reviewers. Do not send videotapes, audiotapes, or CD-ROMs.

- Pages should be numbered consecutively from beginning to end so that information can be located easily during review of the application. For example, the cover page should be labeled "page 1," the abstract page should be "page 2," and the table of contents page should be "page 3." Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue in the sequence.

C. Submission Dates and Times

Deadlines for submission of applications for specific funding opportunities will be published in the NOFAs in the **Federal Register** and posted on the Federal grants Web site (www.grants.gov).

Your application must be received by the application deadline. Applications received after this date must have a proof-of-mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing.

You will be notified by postal mail that your application has been received.

Applications not received by the application deadline or not postmarked by a week prior to the application deadline will be screened out and will not be reviewed.

D. Intergovernmental Review (E.O. 12372) Requirements

Executive Order 12372, as implemented through Department of

Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. Instructions for this review are included in Section VIII-B of this document. Section VIII-C provides instructions for the Public Health System Impact Statement (PHSIS) and submission of comments from the Single State Agency (SSA).

E. Funding Limitations/Restrictions

Cost principles describing allowable and unallowable expenditures for Federal grantees, including SAMHSA grantees, are provided in the following documents:

- Institutions of Higher Education: OMB Circular A-21.
- State and Local Governments: OMB Circular A-87.
- Nonprofit Organizations: OMB Circular A-122.
- Appendix E Hospitals: 45 CFR Part 74.

In addition, SAMHSA Services Grant recipients must comply with the following funding restrictions:

- No more than 15% of the total grant award may be used for developing the infrastructure necessary for expansion of services.
- No more than 20% of the total grant award may be used for evaluation and data collection, including GPRA.

Service Grant funds must be used for purposes supported by the program and may not be used to:

- Pay for any lease beyond the project period.
- Provide services to incarcerated populations (defined as those persons in jail, prison, detention facilities, or in custody where they are not free to move about in the community).
- Pay for the purchase or construction of any building or structure to house any part of the program. (Applicants may request up to \$75,000 for renovations and alterations of existing facilities, if necessary and appropriate to the project.)

- Provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible.)

- Pay for housing other than residential mental health and/or substance abuse treatment.
- Provide inpatient treatment or hospital-based detoxification services. Residential services are not considered to be inpatient or hospital-based services.

- Pay for incentives to induce individuals to enter treatment. However,

a grantee or treatment provider may provide up to \$20 or equivalent (coupons, bus tokens, gifts, child care, and vouchers) to individuals as incentives to participate in required data collection follow-up. This amount may be paid for participation in each required interview.

- Implement syringe exchange programs, such as the purchase and distribution of syringes and/or needles.

- Pay for pharmacologies for HIV antiretroviral therapy, sexually transmitted diseases (STD)/sexually transmitted illnesses (STI), TB, and hepatitis B and C, or for psychotropic drugs.

F. Other Submission Requirements

1. Where To Send Applications

Send applications to the following address: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17-89, Rockville, Maryland 20857.

Be sure to include the funding announcement number from the NOFA in item number 10 on the face page of the application. If you require a phone number for delivery, you may use (301) 443-4266.

2. How To Send Applications

Mail an original application and 2 copies (including appendices) to the mailing address provided above. The original and copies must not be bound. Do not use staples, paper clips, or fasteners. Nothing should be attached, stapled, folded, or pasted.

You must use a recognized commercial or governmental carrier. Hand carried applications will not be accepted. Faxed or e-mailed applications will not be accepted.

V. Application Review Information

A. Evaluation Criteria

Your application will be reviewed and scored according to the quality of your response to the requirements listed below for developing the Project Narrative (Sections A-E). These sections describe what you intend to do with your project.

- In developing the Project Narrative section of your application, use these instructions, which have been tailored to this program. These are to be used instead of the "Program Narrative" instructions found in the PHS 5161-1.

- The Project Narrative (Sections A-E) together may be no longer than 30 pages.

- You must use the five sections/headings listed below in developing your Project Narrative. Be sure to place

the required information in the correct section, or it will not be considered. Your application will be scored according to how well you address the requirements for each section of the Project Narrative.

- Reviewers will be looking for evidence of cultural competence in each section of the Project Narrative. Points will be assigned based on how well you address the cultural competence aspects of the evaluation criteria. SAMHSA's guidelines for cultural competence can be found on the SAMHSA Web site at www.samhsa.gov. Click on "Grant Opportunities."

- The Supporting Documentation you provide in Sections F–I and Appendices 1–5 will be considered by reviewers in assessing your response, along with the material in the Project Narrative.

- The number of points after each heading is the maximum number of points a review committee may assign to that section of your Project Narrative. Bullet statements in each section do not have points assigned to them. They are provided to invite the attention of applicants and reviewers to important areas within the criterion.

Section A: Statement of Need (10 points)

- Describe the target population (*see* Glossary) as well as the geographic area to be served, and justify the selection of both. Include the numbers to be served and demographic information. Discuss the target population's language, beliefs, norms and values, as well as socioeconomic factors that must be considered in delivering programs to this population.

- Describe the nature of the problem and extent of the need for the target population based on data. The statement of need should include a clearly established baseline for the project. Documentation of need may come from a variety of qualitative and quantitative sources. The quantitative data could come from local data or trend analyses, State data (*e.g.*, from State Needs Assessments), and/or national data (*e.g.*, from SAMHSA's National Household Survey on Drug Abuse and Health or from National Center for Health Statistics/Centers for Disease Control reports). For data sources that are not well known, provide sufficient information on how the data were collected so reviewers can assess the reliability and validity of the data.

- Non-tribal applicants must show that identified needs are consistent with priorities of the State or county that has primary responsibility for the service delivery system. Include, in Appendix 5, a copy of the State or County Strategic

Plan, a State or county needs assessment, or a letter from the State or county indicating that the proposed project addresses a State- or county-identified priority. Tribal applicants must provide similar documentation relating to tribal priorities.

- Check the NOFA for any additional requirements.

Section B: Proposed Evidence-Based Service/Practice (30 points)

- Clearly state the purpose, goals and objectives of your proposed project. Describe how achievement of goals will produce meaningful and relevant results (*e.g.*, increase access, availability, prevention, outreach, pre-services, treatment, and/or intervention).

- Identify the evidenced based service/practice that you propose to implement. Describe the evidence-base for the proposed service/practice and show that it incorporates the best objective information available regarding effectiveness and acceptability. Follow the instructions provided in #1, #2 or #3 below, as appropriate:

1. *If you are proposing to implement a service/practice included in NREP (see Appendix C), one of the CMHS tool-kits on evidence-based practices (see Appendix D), the list of Effective Substance Abuse Treatment Practices (see Appendix E), or the NOFA (if applicable), simply identify the practice and state the source from which it was selected. You do not need to provide further evidence of effectiveness.*

2. *If you are providing evidence that includes scientific studies published in the peer-reviewed literature or other studies that have not been published, describe the extent to which:*

- the service/practice has been evaluated and the quality of the evaluation studies (*e.g.*, whether they are descriptive, quasi-experimental studies, or experimental studies)
- the services/practice has demonstrated positive outcomes and for what populations the positive outcomes have been demonstrated
- the service/practice has been documented (*e.g.*, through development of guidelines, tool kits, treatment protocols, and/or manuals) and replicated
- fidelity measures have been developed (*e.g.*, no measures developed, key components identified, or fidelity measures developed)

3. *If you are providing evidence based on a formal consensus process involving recognized experts in the field, describe:*

- the experts involved in developing consensus on the proposed service/

practice (*e.g.*, members of an expert panel formally convened by SAMHSA, NIH, the Institute of Medicine or other nationally recognized organization). The consensus must have been developed by a group of experts whose work is recognized and respected by others in the field. Local recognition of an individual as a respected or influential person at the community level is not considered a "recognized expert" for this purpose.

- the nature of the consensus that has been reached and the process used to reach consensus
- the extent to which the consensus has been documented (*e.g.*, in a consensus panel report, meeting minutes, or an accepted standard practice in the field)
- any empirical evidence (whether formally published or not) supporting the effectiveness of the proposed service/practice
- the rationale for concluding that further empirical evidence does not exist to support the effectiveness of the proposed service/practice

- Justify the use of the proposed service/practice for the target population. Describe and justify any adaptations necessary to meet the needs of the target population as well as evidence that such adaptations will be effective for the target population.

- Identify and justify any additional adaptations or modifications to the proposed service/practice.

- Describe how the proposed project will address issues of age, race, ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population, while retaining fidelity to the chosen practice.

- Demonstrate how the proposed service/practice will meet your goals and objectives. Provide a logic model (*see* Glossary) that links need, the services or practice to be implemented, and outcomes.

- Check the NOFA for any additional requirements.

Section C: Proposed Implementation Approach (25 points)

- Describe how the proposed service or practice will be implemented. Provide a realistic time line for the project (chart or graph) showing key activities, milestones, and responsible staff. [**Note:** The time line should be part of the Project Narrative. It should not be placed in an appendix.]

- Clearly state the unduplicated number of individuals you propose to serve (annually and over the entire project period) with grant funds, including the types and numbers of

services to be provided and anticipated outcomes. Describe how the target population will be identified, recruited, and retained.

- Describe how members of the target population helped prepare the application, and how they will help plan, implement, and evaluate the project.

- Describe how the project components will be embedded within the existing service delivery system, including other SAMHSA-funded projects, if applicable. Identify any other organizations that will participate in the proposed project. Describe their roles and responsibilities and demonstrate their commitment to the project. Include letters of commitment from community organizations supporting the project in Appendix 1. Identify any cash or in-kind contributions that will be made to the project by the applicant or other partnering organizations.

- Show that the necessary groundwork (e.g., planning, consensus development, development of memoranda of agreement, identification of potential facilities) has been completed or is near completion so that the project can be implemented and service delivery can begin as soon as possible and no later than 4 months after grant award.

- Describe the potential barriers to successful conduct of the proposed project and how you will overcome them.

- Provide a plan to secure resources to sustain the proposed project when Federal funding ends.

- Check the NOFA for any additional requirements.

Section D: Staff and Organizational Experience (20 points)

- Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing culturally appropriate/competent services.

- Provide a list of staff who will participate in the project, showing the role of each and their level of effort and qualifications. Include the Project Director and other key personnel, such as the evaluator and treatment/prevention personnel.

- Describe the racial/ethnic characteristics of key staff and indicate if any are members of the target population/community. If the target population is multi-linguistic, indicate if the staffing pattern includes bilingual and bicultural individuals.

- Describe the resources available for the proposed project (e.g., facilities,

equipment), and provide evidence that services will be provided in a location that is adequate, accessible, compliant with the Americans with Disabilities Act (ADA), and amenable to the target population.

- Check the NOFA for any additional requirements.

Section E: Evaluation and Data (15 points)

- Document your ability to collect and report on the required performance measures as specified in the NOFA. Specify and justify any additional measures you plan to use for your grant project.

- Describe plans for data collection, management, analysis, interpretation and reporting. Describe the existing approach to the collection of data, along with any necessary modifications. Be sure to include data collection instruments/interview protocols in Appendix 2.

- Discuss the reliability and validity of evaluation methods and instrument(s) in terms of the gender/age/culture of the target population.

- Describe the process and outcome evaluation, including assessments of implementation and individual outcomes. Show how the evaluation will be integrated with requirements for collection and reporting of performance data, including data required by SAMHSA to meet GPRA requirements.

- Describe how the evaluation will be used to ensure the fidelity to the practice.

- Provide a per-person or unit cost of the project to be implemented, based on the applicant's actual costs and projected costs over the life of the project.

- Check the NOFA for any additional requirements.

Note: Although the budget for the proposed project is not a review criterion, the Review Group will be asked to comment on the appropriateness of the budget after the merits of the application have been considered.

B. Review and Selection Process

SAMHSA applications are peer-reviewed according to the review criteria listed above. For those programs where the individual award is over \$100,000, applications must also be reviewed by the appropriate National Advisory Council.

C. Award Criteria

Decisions to fund a grant are based on:

- the strengths and weaknesses of the application as identified by peer reviewers and, when applicable,

approved by the appropriate National Advisory Council;

- availability of funds; and
- equitable distribution of awards in terms of geography (including urban, rural and remote settings) and balance among target populations and program size.

VI. Award Administration Information

A. Award Notices

After your application has been reviewed, you will receive a letter from SAMHSA through postal mail that describes the general results of the review, including the score that your application received.

If you are approved for funding, you will receive an additional notice, the Notice of Grant Award, signed by SAMHSA's Grants Management Officer. The Notice of Grant Award is the sole obligating document that allows the grantee to receive Federal funding for work on the grant project. It is sent by postal mail and is addressed to the contact person listed on the face page of the application.

If you are not funded, you can re-apply if there is another receipt date for the program.

B. Administrative and National Policy Requirements

- You must comply with all terms and conditions of the grant award. SAMHSA's standard terms and conditions are available on the SAMHSA Web site (www.samhsa.gov).

- Depending on the nature of the specific funding opportunity and/or the proposed project as identified during review, additional terms and conditions may be identified in the NOFA or negotiated with the grantee prior to grant award. These may include, for example:

- actions required to be in compliance with human subjects requirements;

- requirements relating to additional data collection and reporting;

- requirements relating to participation in a cross-site evaluation; or

- requirements to address problems identified in review of the application.

- You will be held accountable for the information provided in the application relating to performance targets. SAMHSA program officials will consider your progress in meeting goals and objectives, as well as your failures and strategies for overcoming them, when making an annual recommendation to continue the grant and the amount of any continuation award. Failure to meet stated goals and

objectives may result in suspension or termination of the grant award, or in reduction or withholding of continuation awards.

- In an effort to improve access to funding opportunities for applicants, SAMHSA is participating in the U.S. Department of Health and Human Services "Survey on Ensuring Equal Opportunity for Applicants." This survey is included in the application kit for SAMHSA grants. Applicants are encouraged to complete the survey and return it, using the instructions provided on the survey form.

C. Reporting Requirements

1. Progress and Financial Reports

- Grantees must provide annual and final progress reports. The final report must summarize information from the annual reports, describe the accomplishments of the project, and describe next steps for implementing plans developed during the grant period.

- Grantees must provide annual and final financial status reports. These reports may be included as separate sections of annual and final progress reports or can be separate documents. Because SAMHSA is extremely interested in ensuring that treatment or prevention services can be sustained, your financial reports should explain plans to ensure the sustainability (see Glossary) of efforts initiated under this grant. Initial plans for sustainability should be described in year 01. In each subsequent year, you should describe the status of your project, as well as the successes achieved and obstacles encountered in that year.

- SAMHSA will provide guidelines and requirements for these reports to grantees at the time of award and at the initial grantee orientation meeting after award. SAMHSA staff will use the information contained in the reports to determine the grantee's progress toward meeting its goals.

2. Government Performance and Results Act (GPRA)

The Government Performance and Results Act (GPRA) mandates accountability and performance-based management by Federal agencies. To meet the GPRA requirements, SAMHSA must collect performance data (*i.e.*, "GPRA data") from grantees. These requirements will be specified in the NOFA for each funding opportunity.

3. Publications

If you are funded under this grant program, you are required to notify the Government Project Officer (GPO) and

SAMHSA's Publications Clearance Officer (301-443-8596) of any materials based on the SAMHSA-funded grant project that are accepted for publication.

In addition, SAMHSA requests that grantees:

- Provide the GPO and SAMHSA Publications Clearance Officer with advance copies of publications.
- Include acknowledgment of the SAMHSA grant program as the source of funding for the project.
- Include a disclaimer stating that the views and opinions contained in the publication do not necessarily reflect those of SAMHSA or the U.S. Department of Health and Human Services, and should not be construed as such.

SAMHSA reserves the right to issue a press release about any publication deemed by SAMHSA to contain information of program or policy significance to the substance abuse treatment/substance abuse prevention/mental health services community.

VII. Agency Contacts

The NOFAs provide contact information for questions about program issues.

For questions on grants management issues, contact: Stephen Hudak, Office of Program Services, Division of Grants Management, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Rockwall II 6th Floor, Rockville, MD 20857, (301) 443-9666, shudak@samhsa.gov.

VIII. Other Information

A. SAMHSA Confidentiality and Participant Protection Requirements and Protection of Human Subjects Regulations

You must describe your procedures relating to Confidentiality, Participant Protection and the Protection of Human Subjects Regulations in Section I of your application, using the guidelines provided below. Problems with confidentiality, participant protection, and protection of human subjects identified during peer review of your application may result in the delay of funding.

Confidentiality and Participant Protection:

All applicants must address each of the following elements relating to confidentiality and participant protection. You must describe how you will address these requirements.

1. Protect Clients and Staff from Potential Risks

- Identify and describe any foreseeable physical, medical,

psychological, social and legal risks or potential adverse effects as a result of the project itself or any data collection activity.

- Describe the procedures you will follow to minimize or protect participants against potential risks, including risks to confidentiality.
 - Identify plans to provide guidance and assistance in the event there are adverse effects to participants.
 - Where appropriate, describe alternative treatments and procedures that may be beneficial to the participants. If you choose not to use these other beneficial treatments, provide the reasons for not using them.

2. Fair Selection of Participants

- Describe the target population(s) for the proposed project. Include age, gender, and racial/ethnic background and note if the population includes homeless youth, foster children, children of substance abusers, pregnant women, or other targeted groups.

- Explain the reasons for including groups of pregnant women, children, people with mental disabilities, people in institutions, prisoners, and individuals who are likely to be particularly vulnerable to HIV/AIDS.

- Explain the reasons for including or excluding participants.
 - Explain how you will recruit and select participants. Identify who will select participants.

3. Absence of Coercion

- Explain if participation in the project is voluntary or required. Identify possible reasons why participation is required, for example, court orders requiring people to participate in a program.

- If you plan to compensate participants, state how participants will be awarded incentives (*e.g.*, money, gifts, etc.).

- State how volunteer participants will be told that they may receive services intervention even if they do not participate in or complete the data collection component of the project.

4. Data Collection

- Identify from whom you will collect data (*e.g.*, from participants themselves, family members, teachers, others). Describe the data collection procedures and specify the sources for obtaining data (*e.g.*, school records, interviews, psychological assessments, questionnaires, observation, or other sources). Where data are to be collected through observational techniques, questionnaires, interviews, or other direct means, describe the data collection setting.

- Identify what type of specimens (e.g., urine, blood) will be used, if any. State if the material will be used just for evaluation or if other use(s) will be made. Also, if needed, describe how the material will be monitored to ensure the safety of participants.

- Provide in Appendix 2, "Data Collection Instruments/Interview Protocols," copies of *all* available data collection instruments and interview protocols that you plan to use.

5. Privacy and Confidentiality:

- Explain how you will ensure privacy and confidentiality. Include who will collect data and how it will be collected.

- Describe:
- How you will use data collection instruments.
- Where data will be stored.
- Who will or will not have access to information.

- How the identity of participants will be kept private, for example, through the use of a coding system on data records, limiting access to records, or storing identifiers separately from data.

Note: If applicable, grantees must agree to maintain the confidentiality of alcohol and drug abuse client records according to the provisions of Title 42 of the Code of Federal Regulations, Part II.

6. Adequate Consent Procedures

- List what information will be given to people who participate in the project. Include the type and purpose of their participation. Identify the data that will be collected, how the data will be used and how you will keep the data private.

- State:
- Whether or not their participation is voluntary.
- Their right to leave the project at any time without problems.
- Possible risks from participation in the project.
- Plans to protect clients from these risks.
- Explain how you will get consent for youth, the elderly, people with limited reading skills, and people who do not use English as their first language.

Note: If the project poses potential physical, medical, psychological, legal, social or other risks, you must obtain written informed consent.

- Indicate if you will obtain informed consent from participants or assent from minors along with consent from their parents or legal guardians. Describe how the consent will be documented. For example: Will you read the consent forms? Will you ask prospective

participants questions to be sure they understand the forms? Will you give them copies of what they sign?

- Include, as appropriate, sample consent forms that provide for: (1) Informed consent for participation in service intervention; (2) informed consent for participation in the data collection component of the project; and (3) informed consent for the exchange (releasing or requesting) of confidential information. The sample forms must be included in Appendix 3, "Sample Consent Forms", of your application. If needed, give English translations.

Note: Never imply that the participant waives or appears to waive any legal rights, may not end involvement with the project, or releases your project or its agents from liability for negligence.

- Describe if separate consents will be obtained for different stages or parts of the project. For example, will they be needed for both participant protection in treatment intervention and for the collection and use of data?

- Additionally, if other consents (e.g., consents to release information to others or gather information from others) will be used in your project, provide a description of the consents. Will individuals who do not consent to having individually identifiable data collected for evaluation purposes be allowed to participate in the project?

7. Risk/Benefit Discussion

Discuss why the risks are reasonable compared to expected benefits and importance of the knowledge from the project.

Protection of Human Subjects Regulations

Depending on the evaluation and data collection requirements of the particular funding opportunity for which you are applying or the evaluation design you propose in your application, you may have to comply with the Protection of Human Subjects Regulations (45 CFR part 46). The NOFA will indicate whether all applicants for a particular funding opportunity must comply with the Protection of Human Subject Regulations.

Applicants must be aware that even if the Protection of Human Subjects Regulations do not apply to all projects funded under a given funding opportunity, the specific evaluation design proposed by the applicant may require compliance with these regulations.

Applicants whose projects must comply with the Protection of Human Subjects Regulations must describe the process for obtaining Institutional Review Board (IRB) approval fully in

their applications. While IRB approval is not required at the time of grant award, these applicants will be required, as a condition of award, to provide the documentation that an Assurance of Compliance is on file with the Office for Human Research Protections (OHRP) and the IRB approval has been received prior to enrolling any clients in the proposed project.

Additional information about Protection of Human Subjects Regulations can be obtained on the Web site at <http://ohrp.osophs.dhhs.gov>. You may also contact OHRP by e-mail (ohrp@osophs.dhhs.gov) or by phone (301/496-7005).

B. Intergovernmental Review (E.O. 12372) Instructions

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and can be downloaded from the Office of Management and Budget (OMB) Web site at <http://www.whitehouse.gov/omb/grants/spoc.html>.

- Check the list to determine whether your State participates in this program. You do not need to do this if you are a federally recognized Indian tribal government.

- If your State participates, contact your SPOC as early as possible to alert him/her to the prospective application(s) and to receive any necessary instructions on the State's review process.

- For proposed projects serving more than one State, you are advised to contact the SPOC of each affiliated State.

- The SPOC should send any State review process recommendations to the following address within 60 days of the application deadline: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17-89, Rockville, Maryland, 20857, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from the NOFA].

C. Public Health System Impact Statement (PHSIS)

The Public Health System Impact Statement or PHSIS (Approved by OMB under control no. 0920-0428; see burden statement below) is intended to keep State and local health officials

informed of proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions. State and local governments and Indian tribal government applicants are not subject to the following Public Health System Reporting Requirements.

Community-based, non-governmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected no later than the pertinent receipt date for applications. This PHSIS consists of the following information:

- A copy of the face page of the application (SF 424); and
- A summary of the project, no longer than one page in length, that provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with appropriate State or local health agencies.

For SAMHSA grants, the appropriate State agencies are the Single State Agencies (SSAs) for substance abuse and mental health. A listing of the SSAs can be found on SAMHSA's Web site at www.samhsa.gov. If the proposed project falls within the jurisdiction of more than one State, you should notify all representative SSAs.

Applicants who are not the SSA must include a copy of a letter transmitting the PHSIS to the SSA in Appendix 4, "Letter to the SSA." The letter must notify the State that, if it wishes to comment on the proposal, its comments should be sent not later than 60 days after the application deadline to: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17-89, Rockville, Maryland, 20857, ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition:

- Applicants may request that the SSA send them a copy of any State comments.
- The applicant must notify the SSA within 30 days of receipt of an award. [Public reporting burden for the Public Health System Reporting Requirement is estimated to average 10 minutes per response, including the time for copying the face page of SF 424 and the abstract and preparing the letter for mailing. 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 number for this project is 0920-0428. Send comments regarding this burden to CDC Clearance Officer, 1600 Clifton Road, MS D-24, Atlanta, GA 30333, ATTN: PRA (0920-0428)].

Appendix A—Checklist for Application Formatting Requirements

Your application must adhere to these formatting requirements. Failure to do so will result in your application being screened out and returned to you without review. In addition to these formatting requirements, there may be programmatic requirements specified in the NOFA. Please check the NOFA before preparing your application.

- Use the PHS 5161-1 application.
- The 10 application components required for SAMHSA applications must be included (*i.e.*, Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist.)
 - Text must be legible.
 - Paper must be white paper and 8.5" by 11.0" in size.
 - Pages must be single-spaced with one column per page.
 - Margins that are at least one inch.
 - Type size in the Project Narrative cannot exceed an average of 15 characters per inch when measured with a ruler. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)
 - Photo reduction or condensation of type cannot be closer than 15 characters per inch or 6 lines per inch.
 - Pages cannot have printing on both sides.
 - Page limitations specified for the Project Narrative (30 pages total for Sections A-E) and Appendices 1, 3 and 4 (30 pages) cannot be exceeded.
 - Information provided must be sufficient for review.
 - Applications must be received by the application deadline. Applications received after this date must have a proof of mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing. Applications not received by the application deadline or postmarked a week prior to the application deadline will not be reviewed.
 - Applications that do not comply with the following requirements and any additional program requirements specified in the NOFA, or are otherwise unresponsive to PA guidelines, will be screened out and returned to the applicant without review:
 - Provisions relating to confidentiality, participant protection and the protection of human subjects specified in Section VIII-A of this document.
 - Budgetary limitations as specified in Sections I, II and IV-E of this document.
 - Documentation of nonprofit status as required in the PHS 5161-1.
 - Requirements relating to provider organization experience and provider organization certification and licensure.

To facilitate review of your application, follow these additional guidelines. Failure to

follow these guidelines will not result in your application being screened out. However, following these guidelines will help reviewers to consider your application.

- Please use black ink and number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

- Send the original application and two copies to the mailing address in the PA. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD-ROMs.

Appendix B—Glossary

Best Practice: Best practices are practices that incorporate the best objective information currently available regarding effectiveness and acceptability.

Catchment Area: A catchment area is the geographic area from which the target population to be served by a program will be drawn.

Cooperative Agreement: A cooperative agreement is a form of Federal grant. Cooperative agreements are distinguished from other grants in that, under a cooperative agreement, substantial involvement is anticipated between the awarding office and the recipient during performance of the funded activity. This involvement may include collaboration, participation, or intervention in the activity. HHS awarding offices use grants or cooperative agreements (rather than contracts) when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

Cost-Sharing or Matching: Cost-sharing refers to the value of allowable non-Federal contributions toward the allowable costs of a Federal grant project or program. Such contributions may be cash or in-kind contributions. For SAMHSA grants, cost-sharing or matching is not required, and applications will not be screened out on the basis of cost-sharing. However, applicants often include cash or in-kind contributions in their proposals as evidence of commitment to the proposed project. This is allowed, and this information may be considered by reviewers in evaluating the quality of the application.

Fidelity: Fidelity is the degree to which a specific implementation of a program or practice resembles, adheres to, or is faithful to the evidence-based model on which it is based. Fidelity is formally assessed using rating scales of the major elements of the evidence-based model. A toolkit on how to

develop and use fidelity instruments is available from the SAMHSA-funded Evaluation Technical Assistance Center at <http://tecathsri.org> or by calling (617) 876-0426.

Grant: A grant is the funding mechanism used by the Federal Government when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

In-Kind Contribution: In-kind contributions toward a grant project are non-cash contributions (e.g., facilities, space, services) that are derived from non-Federal sources, such as State or sub-State non-Federal revenues, foundation grants, or contributions from other non-Federal public or private entities.

Logic Model: A logic model is a diagrammatic representation of a theoretical framework. A logic model describes the logical linkages among program resources, conditions, strategies, short-term outcomes, and long-term impact. More information on how to develop logics models and examples can be found through the resources listed in Appendix G.

Practice: A practice is any activity, or collective set of activities, intended to improve outcomes for people with or at risk for substance abuse and/or mental illness. Such activities may include direct service provision, or they may be supportive activities, such as efforts to improve access to and retention in services, organizational efficiency or effectiveness, community readiness, collaboration among stakeholder groups, education, awareness, training, or any other activity that is designed to improve outcomes for people with or at risk for substance abuse or mental illness.

Practice Support System: This term refers to contextual factors that affect practice delivery and effectiveness in the pre-adoption phase, delivery phase, and post-delivery phase, such as (a) community collaboration and consensus building, (b) training and overall readiness of those implementing the practice, and (c) sufficient ongoing supervision for those implementing the practice.

Stakeholder: A stakeholder is an individual, organization, constituent group, or other entity that has an interest in and will be affected by a proposed grant project.

Sustainability: Sustainability is the ability to continue a program or practice after SAMHSA grant funding has ended.

Target Population: The target population is the specific population of people whom a particular program or practice is designed to serve or reach.

Wraparound Service: Wraparound services are non-clinical supportive services—such as child care, vocational, educational, and transportation services—that are designed to improve the individual's access to and retention in the proposed project.

Appendix C—National Registry of Effective Programs

To help SAMHSA's constituents learn more about science-based programs, SAMHSA's Center for Substance Abuse Prevention (CSAP) created a National Registry of Effective Programs (NREP) to review and identify effective programs. NREP seeks candidates from the practice community and the scientific literature. While the initial focus of NREP was substance abuse prevention programming, NREP has expanded its scope and now includes prevention and treatment of substance abuse and of co-occurring substance abuse and mental disorders, and psychopharmacological programs and workplace programs.

NREP includes three categories of programs: Effective Programs, Promising Programs, and Model Programs. Programs defined as Effective have the option of becoming Model Programs if their developers choose to take part in SAMHSA dissemination efforts. The conditions for making that choice, together with definitions of the three major criteria, are as follows.

Promising Programs have been implemented and evaluated sufficiently and are scientifically defensible. They have positive outcomes in preventing substance abuse and related behaviors. However, they have not yet been shown to have sufficient rigor and/or consistently positive outcomes required for Effective Program status. Nonetheless, Promising Programs are eligible to be elevated to Effective/Model status after review of additional documentation regarding program effectiveness. Originated from a range of settings and spanning target populations, Promising Programs can guide prevention, treatment, and rehabilitation.

Effective Programs are well-implemented, well-evaluated programs that produce consistently positive pattern of results (across domains and/or replications). Developers of Effective Programs have yet to help SAMHSA/CSAP disseminate their programs, but may do so themselves.

Model Programs are also well-implemented, well-evaluated programs, meaning they have been reviewed by NREP according to rigorous standards of research. Their developers have agreed with SAMHSA to provide materials, training, and technical assistance for nationwide implementation. That helps ensure the program is carefully implemented and likely to succeed.

Programs that have met the NREP standards for each category can be identified by accessing the NREP Model Programs Web site at www.modelprograms.samhsa.gov.

Appendix D—Center for Mental Health Services Evidence-Based Practice Toolkits

SAMHSA's Center for Mental Health Services and the Robert Wood Johnson Foundation initiated the Evidence-Based Practices Project to: (1) Help more consumers and families access services that are effective, (2) help providers of mental health services develop effective services, and (3) help administrators support and maintain these services. The project is now also funded and

endorsed by numerous national, State, local, private and public organizations, including the Johnson & Johnson Charitable Trust, the MacArthur Foundation, and the West Family Foundation.

The project has been developed through the cooperation of many Federal and State mental health organizations, advocacy groups, mental health providers, researchers, consumers and family members. A Web site (www.mentalhealthpractices.org) was created as part of Phase I of the project, which included the identification of the first cluster of evidence-based practices and the design of implementation resource kits to help people understand and use these practices successfully.

Basic information about the first six evidence-based practices is available on the Web site. The six practices are:

1. Illness Management and Recovery
2. Family Psychoeducation
3. Medication Management Approaches in Psychiatry
4. Assertive Community Treatment
5. Supported Employment
6. Integrated Dual Disorders Treatment

Each of the resource kits contains information and materials written by and for the following groups:

- Consumers
- Families and Other Supporters
- Practitioners and Clinical Supervisors
- Mental Health Program Leaders
- Public Mental Health Authorities

Material on the Web site can be printed or downloaded with Acrobat Reader, and references are provided where additional information can be obtained.

Once published, the full kits will be available from National Mental Health Information Center at www.health.org or 1-800-789-CMHS (2647).

Appendix E—Effective Substance Abuse Treatment Practices

To assist potential applicants, SAMHSA's Center for Substance Abuse Treatment (CSAT) has identified the following listing of current publications on effective treatment practices for use by treatment professionals in treating individuals with substance abuse disorders. These publications are available from the National Clearinghouse for Alcohol and Drug Information (NCADI); Tele: 1-800-729-6686 or www.health.org and www.samhsa.gov/centers/csat2002/publications.html.

CSAT Treatment Improvement Protocols (TIPs) are consensus-based guidelines developed by clinical, research, and administrative experts in the field.

- *Integrating Substance Abuse Treatment and Vocational Services*. TIP 38 (2000) NCADI #BKD381

- *Substance Abuse Treatment for Persons with Child Abuse and Neglect Issues*. TIP 36 (2000) NCADI #BKD343

- *Substance Abuse Treatment for Persons with HIV/AIDS*. TIP 37 (2000) NCADI #BKD359

- *Brief Interventions and Brief Therapies for Substance Abuse*. TIP 34 (1999) NCADI #BKD341

- *Enhancing Motivation for Change in Substance Abuse Treatment*. TIP 35 (1999) NCADI #BKD342
- *Screening and Assessing Adolescents for Substance Use Disorders*. TIP 31 (1999) NCADI #BKD306
- *Treatment for Stimulant Use Disorders*. TIP 33 (1999) NCADI # BKD289
- *Treatment of Adolescents with Substance Use Disorders*. TIP 32 (1999) NCADI # BKD307
- *Comprehensive Case Management for Substance Abuse Treatment*. TIP 27 (1998) NCADI # BKD251
- *Continuity of Offender Treatment for Substance Use Disorders From Institution to Community*. TIP 30 (1998) NCADI # BKD304
- *Naltrexone and Alcoholism Treatment*. TIP 28 (1998) NCADI # BKD268
- *Substance Abuse Among Older Adults*. TIP 26 (1998) NCADI # BKD250
- *Substance Use Disorder Treatment for People With Physical and Cognitive Disabilities*. TIP 29 (1998) NCADI # BKD288
- *A Guide to Substance Abuse Services for Primary Care Clinicians*. TIP 24 (1997) NCADI # BKD234
- *Substance Abuse Treatment and Domestic Violence*. TIP 25 (1997) NCADI # BKD239
- *Treatment Drug Courts: Integrating Substance Abuse Treatment With Legal Case Processing*. TIP 23 (1996) NCADI # BKD205
- *Alcohol and Other Drug Screening of Hospitalized Trauma Patients*. TIP 16 (1995) NCADI # BKD164
- *Combining Alcohol and Other Drug Abuse Treatment With Diversion for Juveniles in the Justice System*. TIP 21 (1995) NCADI # BKD169
- *Detoxification From Alcohol and Other Drugs*. TIP 19 (1995) NCADI # BKD172
- *LAAM in the Treatment of Opiate Addiction*. TIP 22 (1995) NCADI # BKD170
- *Matching Treatment to Patient Needs in Opioid Substitution Therapy*. TIP 20 (1995) NCADI # BKD168
- *Planning for Alcohol and Other Drug Abuse Treatment for Adults in the Criminal Justice System*. TIP 17 (1995) NCADI # BKD165
- *Assessment and Treatment of Cocaine-Abusing Methadone-Maintained Patients*. TIP 10 (1994) NCADI # BKD157
- *Assessment and Treatment of Patients With Coexisting Mental Illness and Alcohol and Other Drug Abuse*. TIP 9 (1994) NCADI # BKD134
- *Intensive Outpatient Treatment for Alcohol and Other Drug Abuse*. TIP 8 (1994) NCADI # BKD139
- Other Effective Practice Publications: CSAT Publications—
- *Anger Management for Substance Abuse and Mental Health Clients: A Cognitive Behavioral Therapy Manual* (2002) NCADI #BKD444
- *Anger Management for Substance Abuse and Mental Health Clients: Participant Workbook* (2002) NCADI # BKD445
- *Multidimensional Family Therapy for Adolescent Cannabis Users*. CYT Cannabis Youth Treatment Series Vol. 5 (2002) NCADI # BKD388
- *Navigating the Pathways: Lessons and Promising Practices in Linking Alcohol and*

- Drug Services with Child Welfare*. TAP 27 (2002) NCADI # BKD436
- *The Motivational Enhancement Therapy and Cognitive Behavioral Therapy Supplement: 7 Sessions of Cognitive Behavioral Therapy for Adolescent Cannabis Users*. CYT Cannabis Youth Treatment Series Vol. 2 (2002) NCADI # BKD385
- *Family Support Network for Adolescent Cannabis Users*. CYT Cannabis Youth Treatment Series Vol. 3 (2001) NCADI # BKD386
- *Identifying Substance Abuse Among TANF-Eligible Families*. TAP 26 (2001) NCADI # BKD410
- *Motivational Enhancement Therapy and Cognitive Behavioral Therapy for Adolescent Cannabis Users: 5 Sessions*. CYT Cannabis Youth Treatment Series Vol. 1 (2001) NCADI # BKD384
- *The Adolescent Community Reinforcement Approach for Adolescent Cannabis Users*. CYT Cannabis Youth Treatment Series Vol. 4 (2001) NCADI # BKD387
- *Substance Abuse Treatment for Women Offenders: Guide to Promising Practices*. TAP 23 (1999) NCADI # BKD310
- *Addiction Counseling Competencies: The Knowledge, Skills, and Attitudes of Professional Practice*. TAP 21 (1998) NCADI # BKD246
- *Bringing Excellence to Substance Abuse Services in Rural and Frontier America*. TAP 20 (1997) NCADI # BKD220
- *Counselor's Manual for Relapse Prevention with Chemically Dependent Criminal Offenders*. TAP 19 (1996) NCADI # BKD723
- *Draft Buprenorphine Curriculum for Physicians* (**Note:** the Curriculum is in DRAFT form and is currently being updated) www.buprenorphine.samhsa.gov
- *CSAT Guidelines for the Accreditation of Opioid Treatment Programs* www.samhsa.gov/centers/csat/content/dpt/accreditation.htm
- *Model Policy Guidelines for Opioid Addiction Treatment in the Medical Office* www.samhsa.gov/centers/csat/content/dpt/model_policy.htm
- NIDA Manuals—Available through NCADI
- *Brief Strategic Family Therapy*. Manual 5 (2003) NCADI # BKD481
- *Drug Counseling for Cocaine Addiction: The Collaborative Cocaine Treatment Study Model*. Manual 4 (2002) NCADI # BKD465
- *The NIDA Community-Based Outreach Model: A Manual to Reduce Risk HIV and Other Blood-Borne Infections in Drug Users*. (2000) NCADI # BKD366
- *An Individual Counseling Approach to Treat Cocaine Addiction: The Collaborative Cocaine Treatment Study Model*. Manual 3 (1999) NCADI # BKD337
- *Cognitive-Behavioral Approach: Treating Cocaine Addiction*. Manual 1 (1998) NCADI # BKD254
- *Community Reinforcement Plus Vouchers Approach: Treating Cocaine Addiction*. Manual 2 (1998) NCADI # BKD255
- NIAAA Publications—* These publications are available in PDF format or can be ordered on-line at www.niaaa.nih.gov/publications/guides.htm. An order form for the Project

MATCH series is available on-line at www.niaaa.nih.gov/publications/match.htm. All publications listed can be ordered through the NIAAA Publications Distribution Center, P.O. Box 10686, Rockville, MD 20849-0686.

- * *Alcohol Problems in Intimate Relationships: Identification and Intervention*. A Guide for Marriage and Family Therapists (2003) NIH Pub. No. 03-5284
- * *Helping Patients with Alcohol Problems: A Health Practitioner's Guide*. (2003) NIH Pub. No. 03-3769
- * *Cognitive-Behavioral Coping Skills Therapy Manual*. Project MATCH Series, Vol. 3 (1995) NIH Pub. No. 94-3724
- *Motivational Enhancement Therapy Manual*. Project MATCH Series, Vol. 2 (1994) NIH Pub. No. 94-3723

Appendix F—Statement of Assurance

As the authorized representative of the applicant organization, I assure SAMHSA that if {insert name of organization} application is within the funding range for a grant award, the organization will provide the SAMHSA Government Project Officer (GPO) with the following documents. I understand that if this documentation is not received by the GPO within the specified timeframe, the application will be removed from consideration for an award and the funds will be provided to another applicant meeting these requirements.

- A letter of commitment that specifies the nature of the participation and what service(s) will be provided from every service provider organization, listed in Appendix 1 of the application, that has agreed to participate in the project;
- Official documentation that all service provider organizations participating in the project have been providing relevant services for a minimum of 2 years prior to the date of the application in the area(s) in which services are to be provided. Official documents must definitively establish that the organization has provided relevant services for the last 2 years; and
- Official documentation that all participating service provider organizations are in compliance with all local (city, county) and State/tribal requirements for licensing, accreditation, and certification or official documentation from the appropriate agency of the applicable State/tribal, county, or other governmental unit that licensing, accreditation, and certification requirements do not exist. (Official documentation is a copy of each service provider organization's license, accreditation, and certification. Documentation of accreditation will not be accepted in lieu of an organization's license. A statement by, or letter from, the applicant organization or from a provider organization attesting to compliance with licensing, accreditation and certification or that no licensing, accreditation, certification requirements exist does not constitute adequate documentation.)

Signature of Authorized Representative

Date

Appendix G—Logic Model Resources

Chen, W.W., Cato, B.M., & Rainford, N. (1998–9). Using a logic model to plan and evaluate a community intervention program: A case study. *International Quarterly of Community Health Education*, 18(4), 449–458.

Edwards, E.D., Seaman, J.R., Drews, J., & Edwards, M.E. (1995). A community approach for Native American drug and alcohol prevention programs: A logic model framework. *Alcoholism Treatment Quarterly*, 13(2), 43–62.

Hernandez, M. & Hodges, S. (2003). *Crafting Logic Models for Systems of Care: Ideas into Action*. [Making children’s mental health services successful series, volume 1]. Tampa, FL: University of South Florida, The Louis de la Parte Florida Mental Health Institute, Department of Child & Family Studies. <http://cfs.fmhi.usf.edu> or phone (813) 974–4651

Hernandez, M. & Hodges, S. (2001). Theory-based accountability. In M. Hernandez & S. Hodges (Eds.), *Developing Outcome Strategies in Children’s Mental Health*, pp. 21–40. Baltimore: Brookes.

Julian, D.A. (1997). Utilization of the logic model as a system level planning and evaluation device. *Evaluation and Planning*, 20(3), 251–257.

Julian, D.A., Jones, A., & Deyo, D. (1995). Open systems evaluation and the logic model: Program planning and evaluation tools. *Evaluation and Program Planning*, 18(4), 333–341.

Patton, M.Q. (1997). *Utilization-Focused Evaluation* (3rd Ed.), pp. 19, 22, 241. Thousand Oaks, CA: Sage.

Wholey, J.S., Hatry, H.P., Newcome, K.E. (Eds.) (1994). *Handbook of Practical Program Evaluation*. San Francisco, CA: Jossey-Bass Inc.

Dated: November 13, 2003.

Daryl Kade,

Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.

[FR Doc. 03–28874 Filed 11–20–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Final Standard Infrastructure Grants Announcement

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of final Infrastructure Grants announcement.

SUMMARY: On August 21, 2003, the Substance Abuse and Mental Health Services Administration (SAMHSA) announced plans to change its approach to announcing and soliciting applications for its discretionary grant programs in Fiscal Year (FY) 2004. These changes involved the publication of four standard grant announcements that would provide the basic program design and application instructions for four types of grants—Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. The four announcements were made available for public review and comment for 60 days. The comments received and changes made to the standard grant announcements are described in a separate **Federal Register** notice. This notice provides the final text for SAMHSA’s standard Infrastructure Grants announcement.

Authority: Sections 509, 516, and 520A of the Public Health Service Act.

DATES: Use of the standard Infrastructure Grants announcement will be effective November 21, 2003. The standard Infrastructure Grants announcement must be used in conjunction with *separate* Notices of Funding Availability (NOFAs) that will provide application due dates and other key dates for specific SAMHSA grant funding opportunities.

ADDRESSES: Questions about SAMHSA’s standard Infrastructure Grants announcement may be directed to Cathy Friedman, M.A., Office of Policy,

Planning and Budget, 5600 Fishers Lane, Room 12C–26, Rockville, Maryland, 20857. Fax: (301–594–6159) E-mail: cfriedma@samhsa.gov.

FOR FURTHER INFORMATION CONTACT: Cathy Friedman, M.A., Office of Policy, Planning and Budget, 5600 Fishers Lane, Room 12C–26, Rockville, Maryland, 20857. Fax: (301–594–6159) E-mail: cfriedma@samhsa.gov. Phone: (301) 443–1910.

SUPPLEMENTARY INFORMATION: Starting in FY 2004, SAMHSA is changing its approach to announcing and soliciting applications for its discretionary grants. SAMHSA will publish four standard grant announcements that will describe the general program design and provide application instructions for four types of grants—Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. The text for the final standard Infrastructure Grants announcement is provided below.

The standard Infrastructure Grants announcement will be posted on SAMHSA’s web page (www.samhsa.gov) and will be available from SAMHSA’s clearinghouses on an ongoing basis. The standard announcements will be used in conjunction with brief Notices of Funding Availability (NOFAs) that will announce the availability of funds for specific grant funding opportunities within each of the standard grant programs (e.g., Homeless Treatment grants, Statewide Family Network grants, HIV/AIDS and Substance Abuse Prevention Planning Grants, etc.).

Infrastructure Grants—INF 04 (Initial Announcement)

Catalogue of Federal Domestic Assistance (CFDA) No.: 93.243 (unless otherwise specified in a NOFA in the **Federal Register** and on www.grants.gov).

Authority: Sections 509, 516 and/or 520A of the Public Health Service Act, as amended, and subject to the availability of funds (unless otherwise specified in a NOFA in the **Federal Register** and on www.grants.gov).

KEY DATES

Application Deadline	This Program Announcement provides general instructions and guidelines for multiple funding opportunities. Application deadlines for specific funding opportunities will be published in Notices of Funding Availability (NOFAs) in the Federal Register and on http://www.grants.gov .
Intergovernmental Review (E.O. 12372).	Letters from State Single Point of Contact (SPOC) are due no later than 60 days after application deadline.
Public Health System Impact Statement (PHSIS)/SSA Coordination.	Applicants must send the PHSIS to appropriate State and local health agencies by application deadline. Comments from Single State Agency are due no later than 60 days after application deadline.

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I. Funding Opportunity Description

A. Introduction

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces its intent to solicit applications for Infrastructure Grants. These grants will increase the capacity of mental health and/or substance abuse service systems to support effective programs and services. Applicants who seek Federal support to develop or enhance their service system infrastructure in order to support effective substance abuse and/or mental health services should apply for awards under this announcement.

SAMHSA also funds grants under three other standard grant announcements:

- *Services Grants* provide funding to implement substance abuse and mental health services.
- *Best Practices Planning and Implementation Grants* help communities and providers identify practices to effectively meet local needs, develop strategic plans for implementing/adapting those practices and pilot-test practices prior to full-scale implementation.
- *Service to Science Grants* document and evaluate innovative practices that address critical substance abuse and mental health service gaps but that have not yet been formally evaluated.

This announcement describes the general program design and provides application instructions for all SAMHSA Infrastructure Grants. The

availability of funds for specific Infrastructure Grants will be announced in supplementary Notices of Funding Availability (NOFAs) in the **Federal Register** and at www.grants.gov—the Federal grant announcement web page.

Typically, funding for Infrastructure Grants will be targeted to specific populations and/or issue areas, which will be specified in the NOFAs. The NOFAs will also:

- Specify total funding available for the first year of the grants and the expected size and number of awards;
- Provide the application deadline;
- Note any specific program requirements for each funding opportunity; and
- Include any limitations or exceptions to the general provisions in this announcement (e.g., eligibility, allowable activities).

It is, therefore, critical that you consult the NOFA as well as this announcement in developing your grant application.

B. Expectations

SAMHSA's Infrastructure Grants support an array of activities to help the grantee build a solid foundation for delivering and sustaining effective substance abuse prevention and/or treatment and/or mental health services.

SAMHSA recognizes that each applicant will start from a unique point in developing infrastructure and will serve populations/communities with specific needs. Awardees may pursue diverse strategies and methods to achieve their infrastructure development and capacity expansion goals. Successful applicants will provide a coherent and detailed conceptual "roadmap" of the process by which they have assessed or intend to assess service system needs and plan/implement infrastructure development strategies that meet those needs. The plan put forward in the grant application must show the linkages among needs, the proposed infrastructure development strategy, and increased system capacity that will enhance and sustain effective programs and services.

1. Allowable Activities

SAMHSA's Infrastructure Grants will support the following types of activities: *Infrastructure Development*. Infrastructure Grant funds must be used primarily to support infrastructure development, including the following types of activities:

- Needs assessment.
- Strategic planning.
- Financing/coordination of funding streams.

- Organizational/structural change (e.g., to create locus of responsibility for a specific issue/population, or to increase access to or efficiency of services).

- Development of interagency coordination mechanisms.
- Provider/network development.
- Policy development to support needed service system improvements (e.g., rate-setting activities, establishment of standards of care, development/revision of credentialing, licensure, or accreditation requirements).
- Quality improvement efforts.
- Performance measurement development.
- Workforce development (e.g., training, support for licensure, credentialing, or accreditation).
- Data infrastructure/MIS development.

Implementation Pilots (maximum 15 percent of total grant award). Depending on the scope of the project (see description of award categories below), up to 15 percent of the total grant award may be used for "implementation pilots" to test the effectiveness of the infrastructure changes on services delivery. Funds may not be used to provide direct services except in the context of an implementation pilot.

2. Data and Performance Measurement

The Government Performance and Results Act of 1993 (P.L.103-62, or "GPRA") requires all Federal agencies to set program performance targets and report annually on the degree to which the previous year's targets were met.

Agencies are expected to evaluate their programs regularly and to use results of these evaluations to explain their successes and failures and justify requests for funding.

To meet the GPRA requirements, SAMHSA must collect performance data (i.e., "GPRA data") from grantees. Grantees are required to report these GPRA data to SAMHSA on a timely basis.

Specifically, grantees will be required to provide data on a set of required measures, as specified in the NOFA. The data collection tools to be used for reporting the required data will be provided in the application kits distributed by SAMHSA's clearinghouses and posted on SAMHSA's website along with each NOFA. In your application, you must demonstrate your ability to collect and report on these measures, and you may be required to provide some baseline data.

The terms and conditions of the grant award also will specify the data to be

submitted and the schedule for submission. Grantees will be required to adhere to these terms and conditions of award.

Applicants should be aware that SAMHSA is working to develop a set of required core performance measures for each of SAMHSA's standard grants (*i.e.*, Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants). As this effort proceeds, some of the data collection and reporting requirements included in SAMHSA's NOFAs may change. All grantees will be expected to comply with any changes in data collection requirements that occur during the grantee's project period.

3. Grantee Meetings

You must plan to send a minimum of two people (including the Project Director) to at least one joint grantee meeting in each year of the grant, and you must include funding for this travel in your budget. At these meetings, grantees will present the results of their projects and Federal staff will provide technical assistance. Each meeting will be 3 days. These meetings will usually be held in the Washington, DC, area, and attendance is mandatory.

4. Evaluation

Grantees must evaluate their projects, and applicants are required to describe their evaluation plans in their applications. The evaluation should be designed to provide regular feedback to the project to improve services. The evaluation must include both process and outcome components. Process and outcome evaluations must measure change relating to project goals and objectives over time compared to baseline information. Control or comparison groups are not required. You must consider your evaluation plan when preparing the project budget.

Process components should address issues such as:

- How closely did implementation match the plan?
- What types of deviation from the plan occurred?
- What led to the deviations?
- What impact did the deviations have on the intervention and evaluation?
- Who provided (program, staff) what services (modality, type, intensity, duration), to whom (individual characteristics), in what context (system, community), and at what cost (facilities, personnel, dollars)?

Outcome components should address issues such as:

- What was the effect of infrastructure development on service capacity and other system outcomes?
 - What program/contextual factors were associated with outcomes?
 - What individual factors were associated with outcomes?
 - How durable were the effects?
- If the project includes an implementation pilot involving services delivery, the evaluation should include client and system outcomes.
- No more than 20% of the total grant award may be used for evaluation and data collection. The evaluation and data collection may be considered "Infrastructure" and/or "Implementation Pilots" expenditures, depending on their purpose.

II. Award Information

A. Award Amount

The NOFA will specify the expected award amount for each funding opportunity. Regardless of the amount specified in the NOFA, the actual award amount will depend on the availability of funds.

Two types of Infrastructure Grants will be made:

Category 1—Small Infrastructure Grants. The Category 1 grants will be limited in scope as specified in the NOFA. For example, allowable activities might be limited to workforce development, data infrastructure, or strategic planning. Implementation pilots are not allowed in Category 1 awards. Category 1 awards are expected to be for a period of 1–3 years in amounts ranging from \$250,000–\$500,000 per year.

Category 2—Comprehensive Infrastructure Grants. The scope of the Category 2 grants will be much larger. While applicants are not required to include all of the allowable activities in their proposed projects, the proposed projects must encompass multiple domains (*e.g.*, needs assessment, strategic and financial planning, organizational/structural change, and network development). Category 2 awards may use a maximum of 15 percent of the total grant award for implementation pilots. Category 2 awards are expected to be for a period of 3–5 years in amounts ranging from \$750,000–\$3 million per year.

Applications with proposed budgets that exceed the allowable amount as specified in the NOFA in any year of the proposed project will be screened out and will not be reviewed. Annual continuation awards will depend on the availability of funds, grantee progress in meeting project goals and objectives, and timely submission of required data and reports.

B. Funding Mechanism

The NOFA will indicate whether awards for each funding opportunity will be made as grants or cooperative agreements (*see* the Glossary in Appendix B for further explanation of these funding mechanisms). For cooperative agreements, the NOFA will describe the nature of Federal involvement in project performance and specify roles and responsibilities of grantees and Federal staff.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants are domestic public and private nonprofit entities. For example, State, local or tribal governments; public or private universities and colleges; community- and faith-based organizations; and tribal organizations may apply. The statutory authority for this program precludes grants to for-profit organizations. The NOFA will indicate any limitations on eligibility.

B. Cost-Sharing

Cost-sharing (*see* Glossary) is not required in this program, and applications will not be screened out on the basis of cost-sharing. However, you may include cash or in-kind (*see* Glossary) contributions in your proposal as evidence of commitment to the proposed project.

C. Other

SAMHSA applicants must comply with certain program requirements, including:

- Budgetary limitations as specified in Sections I, II, and IV–E of this document; and
- Documentation of nonprofit status as required in the PHS 5161–1.

You also must comply with any additional program requirements specified in the NOFA, such as the required signature of certain officials on the face page of the application and/or required memoranda of understanding with certain signatories.

Applications that do not comply with the eligibility and specific program requirements for the funding opportunity for which the application is submitted will be screened out and will not be reviewed.

IV. Application and Submission Information

(To ensure that you have met all submission requirements, a checklist is provided for your use in Appendix A of this document.)

A. Address To Request Application Package

You may request a complete application kit by calling one of SAMHSA's national clearinghouses:

- For substance abuse prevention or treatment grants, call the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1-800-729-6686.

- For mental health grants, call the National Mental Health Information Center at 1-800-789-CMHS (2647).

You also may download the required documents from the SAMHSA Web site at www.samhsa.gov. Click on "grant opportunities."

Additional materials available on this Web site include:

- A technical assistance manual for potential applicants;
- Standard terms and conditions for SAMHSA grants;
- Guidelines and policies that relate to SAMHSA grants (e.g., guidelines on cultural competence, consumer and family participation, and evaluation); and
- Enhanced instructions for completing the PHS 5161-1 application.

B. Content and Form of Application Submission

1. Required Documents

SAMHSA application kits include the following documents:

- PHS 5161-1 (revised July 2000)—Includes the face page, budget forms, assurances, certification, and checklist. You must use the PHS 5161-1 unless otherwise specified in the NOFA. Applications that are not submitted on the required application form will be screened out and will not be reviewed.

- Program Announcement (PA)—Includes instructions for the grant application. This document is the PA.

- Notice of Funding Availability (NOFA)—Provides specific information about availability of funds, as well as any exceptions or limitations to provisions in the PA. The NOFAs will be published in the Federal Register, as well as on the Federal grants Web site (www.grants.gov).

You must use all of the above documents in completing your application.

2. Required Application Components

To ensure equitable treatment of all applications, SAMHSA will accept only complete applications for review. In order for your application to be complete, it must include the required ten application components (Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting

Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist). Applications that do not contain the required components will be screened out and will not be reviewed.

- *Face Page*—Use Standard Form (SF) 424, which is part of the PHS 5161-1.

[**Note:** Beginning October 1, 2003, applicants will need to provide a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. SAMHSA applicants will be required to provide their DUNS number on the face page of the application. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access the Dun and Bradstreet Web site at www.dunandbradstreet.com or call 1-866-705-5711. To expedite the process, let Dun and Bradstreet know that you are a public/private nonprofit organization getting ready to submit a Federal grant application.]

- *Abstract*—Your total abstract should not be longer than 35 lines. In the first five lines or less of your abstract, write a summary of your project that can be used, if your project is funded, in publications, reporting to Congress, or press releases.

- *Table of Contents*—Include page numbers for each of the major sections of your application and for each appendix.

- *Budget Form*—Use SF 424A, which is part of the 5161-1. Fill out Sections B, C, and E of the SF 424A.

- *Project Narrative and Supporting Documentation*—The Project Narrative describes your project. It consists of Sections A through D. These sections in total may not be longer than 25 pages. More detailed instructions for completing each section of the Project Narrative are provided in "Section V—Application Review Information" of this document.

The Supporting Documentation provides additional information necessary for the review of your application. This supporting documentation should be provided immediately following your Project Narrative in Sections E through H. There are no page limits for these sections, except for Section G, Biographical Sketches/Job Descriptions.

- *Section E—Literature Citations*. This section must contain complete citations, including titles and all authors, for any literature you cite in your application.

- *Section F—Budget Justification, Existing Resources, Other Support*. You must provide a narrative justification of the items included in your proposed budget, as well as a description of

existing resources and other support you expect to receive for the proposed project. Be sure to show that no more than 20% of the total grant award will be used for data collection and evaluation. If you are proposing a services implementation pilot (allowed only for Category 2 applicants), show that no more than 15% of the total grant award will be used for the pilot.

- *Section G—Biographical Sketches and Job Descriptions*.

- Include a biographical sketch for the Project Director and other key positions. Each sketch should be 2 pages or less. If the person has not been hired, include a letter of commitment from the individual with a current biographical sketch.

- Include job descriptions for key personnel. Job descriptions should be no longer than 1 page each.

- Sample sketches and job descriptions are listed on page 22, Item 6 in the Program Narrative section of the PHS 5161-1.

- *Section H—Confidentiality and SAMHSA Participant Protection/Human Subjects*. Section VIII-A of this document describes requirements for the protection of the confidentiality, rights and safety of participants in SAMHSA-funded activities. This section also includes guidelines for completing this part of your application.

- *Appendices 1 through 5*—Use only the appendices listed below. Do not use more than 30 pages for Appendices 1, 3 and 4. There are no page limitations for Appendices 2 and 5. Do not use appendices to extend or replace any of the sections of the Project Narrative unless specifically required in the NOFA. Reviewers will not consider them if you do.

- *Appendix 1: Letters of Support*.

- *Appendix 2: Data Collection Instruments/Interview Protocols*.

- *Appendix 3: Sample Consent Forms*.

- *Appendix 4: Letter to the SSA* (if applicable; see Section VIII-C of this document).

- *Appendix 5: A copy of the State or County Strategic Plan, a State or county needs assessment, or a letter from the State or county indicating that the proposed project addresses a State-or county-identified priority*.

- *Assurances—Non-Construction Programs*. Use Standard Form 424B found in PHS 5161-1. Some applicants will be required to complete the Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations Form SMA 170. If this assurance applies to a specific funding opportunity, it will be posted on SAMHSA's Web site with the NOFA

and provided in the application kits available at SAMHSA's clearinghouse (NCADI).

- *Certifications*—Use the “Certifications” forms found in PHS 5161–1.

- *Disclosure of Lobbying Activities*—Use Standard Form LLL found in the PHS 5161–1. Federal law prohibits the use of appropriated funds for publicity or propaganda purposes, or for the preparation, distribution, or use of the information designed to support or defeat legislation pending before the Congress or State legislatures. This includes “grass roots” lobbying, which consists of appeals to members of the public suggesting that they contact their elected representatives to indicate their support for or opposition to pending legislation or to urge those representatives to vote in a particular way.

- *Checklist*—Use the Checklist found in PHS 5161–1. The Checklist ensures that you have obtained the proper signatures, assurances and certifications and is the last page of your application.

3. Application Formatting Requirements

Applicants also must comply with the following basic application requirements. Applications that do not comply with these requirements will be screened out and will not be reviewed.

- Text must be legible.
- Paper must be white and 8.5” by 11.0” in size.
- Pages must be typed single-spaced with one column per page.
- Page margins must be at least one inch.
- Type size in the Project Narrative cannot exceed an average of 15 characters per inch when measured with a ruler. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)
- Photo reduction or condensation of type cannot be closer than 15 characters per inch or 6 lines per inch.
- Pages cannot have printing on both sides.
- Page limitations specified for the Project Narrative and Appendices cannot be exceeded.
- Information provided must be sufficient for review.

To facilitate review of your application, follow these additional guidelines:

- Applications should be prepared using black ink. This improves the quality of the copies of applications that are provided to reviewers.
- Do not use heavy or light-weight paper or any material that cannot be photocopied using automatic photocopying machines. Odd-sized and

oversized attachments, such as posters, will not be copied or sent to reviewers. Do not send videotapes, audiotapes, or CD-ROMs.

- Pages should be numbered consecutively from beginning to end so that information can be located easily during review of the application. For example, the cover page should be labeled “page 1,” the abstract page should be “page 2,” and the table of contents page should be “page 3.” Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue in the sequence.

C. Submission Dates and Times

Deadlines for submission of applications for specific funding opportunities will be published in the NOFAs in the **Federal Register** and posted on the Federal grants Web site (www.grants.gov).

Your application must be received by the application deadline. Applications sent through postal mail and received after this date must have a proof-of-mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing.

You will be notified by postal mail that your application has been received.

Applications not received by the application deadline or not postmarked by a week prior to the application deadline will be screened out and will not be reviewed.

D. Intergovernmental Review (E.O. 12372) Requirements

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. Instructions for this review are included in Section VIII–B of this document. Section VIII–C provides instructions for the Public Health System Impact Statement (PHSIS) and submission of comments from the Single State Agency (SSA).

E. Funding Limitations/Restrictions

Cost principles describing allowable and unallowable expenditures for Federal grantees, including SAMHSA grantees, are provided in the following documents:

- Institutions of Higher Education: OMB Circular A–21.
- State and Local Governments: OMB Circular A–87.
- Nonprofit Organizations: OMB Circular A–122.

- Appendix E Hospitals: 45 CFR Part 74.

In addition, SAMHSA Infrastructure Grant recipients must comply with the following funding restrictions:

- Infrastructure grant funds must be used for purposes supported by the program.
- If requested project funds exceed \$750,000, a maximum of 15% of grant award funds may be used for implementation pilots. Direct services may be funded only in the context of an implementation pilot.
- No more than 20% of the grant award may be used for evaluation and data collection expenses. These expenses may be considered infrastructure or implementation pilot expenses, depending on the nature of the evaluation and data collection.
- Infrastructure funds may not be used to pay for the purchase or construction of any building or structure to house any part of the grant project. Applications may request up to \$75,000 for renovations and alterations of existing facilities.

F. Other Submission Requirements

1. Where To Send Applications

Send applications to the following address: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17–89, Rockville, Maryland, 20857.

Be sure to include the funding announcement number from the NOFA in item number 10 on the face page of the application. If you require a phone number for delivery, you may use (301) 443–4266.

2. How To Send Applications

Mail an original application and 2 copies (including appendices) to the mailing address provided above. The original and copies must not be bound. Do not use staples, paper clips, or fasteners. Nothing should be attached, stapled, folded, or pasted.

You must use a recognized commercial or governmental carrier. Hand carried applications will not be accepted. Faxed or e-mailed applications will not be accepted.

V. Application Review Information

A. Evaluation Criteria

Your application will be reviewed and scored according to the *quality* of your response to the requirements listed below for developing the Project Narrative (Sections A–D). These sections describe what you intend to do with your project.

- In developing the Project Narrative section of your application, use these instructions, which have been tailored to this program. These are to be used instead of the "Program Narrative" instructions found in the PHS 5161-1.

- You must use the four sections/headings listed below in developing your Project Narrative. Be sure to place the required information in the correct section, or it will not be considered. Your application will be scored according to how well you address the requirements for each section.

- Reviewers will be looking for evidence of cultural competence in each section of the Project Narrative. Points will be assigned based on how well you address the cultural competence aspects of the evaluation criteria. SAMHSA's guidelines for cultural competence can be found on the SAMHSA Web site at www.samhsa.gov. Click on "Grant Opportunities."

- The Supporting Documentation you provide in Sections E-H and Appendices 1-5 will be considered by reviewers in assessing your response, along with the material in the Project Narrative.

- The number of points after each heading below is the maximum number of points a review committee may assign to that section of your Project Narrative. Bullet statements in each section do not have points assigned to them. They are provided to invite the attention of applicants and reviewers to important areas within each section.

Section A: Statement of Need (10 points)

- Describe the target population (*see* Glossary) and the proposed catchment area (*see* Glossary), and justify the selection of both. Include the numbers to be served and demographic information. Discuss the target population's language, beliefs, norms and values, as well as socioeconomic factors that must be considered in delivering programs to this population.

- Document the need for an enhanced infrastructure to increase the capacity to implement, sustain, and improve effective substance abuse prevention and/or treatment and/or mental health services for the proposed target population in the proposed catchment area. Documentation of need may come from local data or trend analyses, State data (*e.g.*, from State Needs Assessments), and/or national data (*e.g.*, from SAMHSA's National Household Survey on Drug Abuse and Health or from National Center for Disease Control reports). For data sources that are not well known, provide sufficient

information on how the data were collected so reviewers can assess the reliability and validity of the data.

- Describe the service gaps, barriers, and other problems related to the need for infrastructure development. Describe the stakeholders (*see* Glossary) and resources in the target area that can help implement the needed infrastructure development.

- Non-tribal applicants must show that identified needs are consistent with priorities of the State or county that has primary responsibility for the service delivery system. Include, in Appendix 5, a copy of the State or County Strategic Plan, a State or county needs assessment, or a letter from the State or county indicating that the proposed project addresses a State- or county-identified priority. Tribal applicants must provide similar documentation relating to tribal priorities.

- Check the NOFA for any additional requirements.

Section B: Proposed Approach (35 points)

- Clearly state the purpose of the proposed project, with goals and objectives. Describe how achievement of goals will increase system capacity to support effective substance abuse and/or mental health services.

- Describe the proposed project. Provide evidence that the proposed activities meet the infrastructure needs and show how your proposed infrastructure development strategy will meet the goals and objectives.

- Provide a logic model (*see* Glossary) that demonstrates the linkage between the identified need, the proposed approach, and outcomes.

- If you plan to include an advisory body in your project, describe its membership, roles and functions, and frequency of meetings.

- Describe any other organizations that will participate and their roles and responsibilities. Demonstrate their commitment to the project. Include letters of commitment/coordination/support from these community organizations in Appendix 1 of the application. Identify any cash or in-kind contributions that will be made to the project.

- Describe how the proposed project will address issues of age, race/ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population.

- Describe how members of the target population were involved in the preparation of the application, and how they will be involved in the planning, implementation, and evaluation of the project.

- Describe the potential barriers to successful conduct of the proposed project and how you will overcome them.

- Describe how your activities will improve substance abuse prevention and/or treatment and/or mental health services.

- Provide a plan to secure resources to sustain the proposed infrastructure enhancements when Federal funding ends.

- Check the NOFA for any additional requirements.

Section C: Staff, Management, and Relevant Experience (25 points)

- Provide a realistic time line for the project (chart or graph) showing key activities, milestones, and responsible staff. [**Note:** The time line should be part of the Project Narrative. It should not be placed in an appendix.]

- Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing culturally appropriate/competent services.

- Provide a list of staff who will participate in the project, showing the role of each and their level of effort and qualifications. Include the Project Director and other key personnel, such as the evaluator and treatment/prevention personnel.

- Describe the racial/ethnic characteristics of key staff and indicate if any are members of the target population/community. If the target population is multi-linguistic, indicate if the staffing pattern includes bilingual and bicultural individuals.

- Describe the resources available for the proposed project *e.g.*, facilities, equipment). If an implementation pilot is proposed that includes direct services, provide evidence that services will be provided in a location that is adequate, accessible, compliant with the Americans with Disabilities Act (ADA), and amenable to the target population.

- Check the NOFA for any additional requirements.

Section D: Evaluation and Data (30 points)

- Describe the process and outcome evaluation. Include specific performance measures and target outcomes related to the goals and objectives identified for the project in Section B of your Project Narrative.

- Document your ability to collect and report on the required performance measures as specified in the NOFA, including data required by SAMHSA to meet GPR requirements. Specify and

justify any additional measures you plan to use for your grant project.

- Describe plans for data collection, management, analysis, interpretation and reporting. Describe the existing approach to the collection of data, along with any necessary modifications. Be sure to include data collection instruments/interview protocols in Appendix 2.

- Discuss the reliability and validity of evaluation methods and instruments(s) in terms of the gender/age/culture of the target population.

- Describe how collection, analysis and reporting of performance data will be integrated into the evaluation activities.

- Check the NOFA for any additional requirements.

Note: Although the budget for the proposed project is not a review criterion, the Review Group will be asked to comment on the appropriateness of the budget after the merits of the application have been considered.

B. Review and Selection Process

SAMHSA applications are peer-reviewed according to the review criteria listed above. For those programs where the individual award is over \$100,000, applications must also be reviewed by the appropriate National Advisory Council.

C. Award Criteria

Decisions to fund a grant are based on:

- The strengths and weaknesses of the application as identified by peer reviewers and, when appropriate, approved by the appropriate National Advisory Council;

- Availability of funds; and
- Equitable distribution of awards in terms of geography (including urban, rural and remote settings) and balance among target populations and program size.

VI. Award Administration Information

A. Award Notices

After your application has been reviewed, you will receive a letter from SAMHSA through postal mail that describes the general results of the review, including the score that your application received.

If you are approved for funding, you will receive an additional notice, the Notice of Grant Award, signed by SAMHSA's Grants Management Officer. The Notice of Grant Award is the sole obligating document that allows the grantee to receive Federal funding for work on the grant project. It is sent by postal mail and is addressed to the contact person listed on the face page of the application.

If you are not funded, you can re-apply if there is another receipt date for the program.

B. Administrative and National Policy Requirements

- You must comply with all terms and conditions of the grant award. SAMHSA's standard terms and conditions are available on the SAMHSA Web site (www.samhsa.gov).

- Depending on the nature of the specific funding opportunity and/or the proposed project as identified during review, additional terms and conditions may be identified in the NOFA or negotiated with the grantee prior to grant award. These may include, for example:

- Actions required to be in compliance with human subjects requirements;

- Requirements relating to additional data collection and reporting;

- Requirements relating to participation in a cross-site evaluation; or

- Requirements to address problems identified in review of the application.

- You will be held accountable for the information provided in the application relating to performance targets. SAMHSA program officials will consider your progress in meeting goals and objectives, as well as your failures and strategies for overcoming them, when making an annual recommendation to continue the grant and the amount of any continuation award. Failure to meet stated goals and objectives may result in suspension or termination of the grant award, or in reduction or withholding of continuation awards.

- In an effort to improve access to funding opportunities for applicants, SAMHSA is participating in the U.S. Department of Health and Human Services "Survey on Ensuring Equal Opportunity for Applicants." This survey is included in the application kit for SAMHSA grants. Applicants are encouraged to complete the survey and return it, using the instructions provided on the survey form.

C. Reporting Requirements

1. Progress and Financial Reports

- Grantees must provide annual and final progress reports. The final progress report must summarize information from the annual reports, describe the accomplishments of the project, and describe next steps for implementing plans developed during the grant period.

- Grantees must provide annual and final financial status reports. These

reports may be included as separate sections of annual and final progress reports or can be separate documents. Because SAMHSA is extremely interested in ensuring that infrastructure development and enhancement efforts can be sustained, your financial reports must explain plans to ensure the sustainability (see Glossary) of efforts initiated under this grant. Initial plans for sustainability should be described in year 1 of the grant. In each subsequent year, you should describe the status of the project, successes achieved and obstacles encountered in that year.

- SAMHSA will provide guidelines and requirements for these reports to grantees at the time of award and at the initial grantee orientation meeting after award. SAMHSA staff will use the information contained in the reports to determine the grantee's progress toward meeting its goals.

2. Government Performance and Results Act

The Government Performance and Results Act (GPRA) mandates accountability and performance-based management by Federal agencies. To meet the GPRA requirements, SAMHSA must collect performance data (*i.e.*, "GPRA data") from grantees. These requirements will be specified in the NOFA for each funding opportunity.

3. Publications

If you are funded under this grant program, you are required to notify the Government Project Officer (GPO) and SAMHSA's Publications Clearance Officer (301-443-8596) of any materials based on the SAMHSA-funded project that are accepted for publication.

In addition, SAMHSA requests that grantees:

- Provide the GPO and SAMHSA Publications Clearance Officer with advance copies of publications.

- Include acknowledgment of the SAMHSA grant program as the source of funding for the project.

- Include a disclaimer stating that the views and opinions contained in the publication do not necessarily reflect those of SAMHSA or the U.S. Department of Health and Human Services, and should not be construed as such.

SAMHSA reserves the right to issue a press release about any publication deemed by SAMHSA to contain information of program or policy significance to the substance abuse treatment/substance abuse prevention/mental health services community.

VII. Agency Contacts

The NOFAs provide contact information for questions about program issues.

For questions on grants management issues, contact: Stephen Hudak, Office of Program Services, Division of Grants Management, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Rockwall II 6th Floor, Rockville, MD 20857, (301) 443-9666, shudak@samhsa.gov.

VIII. Other Information

A. SAMHSA Confidentiality and Participant Protection Requirements and Protection of Human Subjects Regulations

You must describe your procedures relating to Confidentiality, Participant Protection and the Protection of Human Subjects Regulations in Section H of your application, using the guidelines provided below. Problems with confidentiality, participant protection, and protection of human subjects identified during peer review of your application may result in the delay of funding.

Confidentiality and Participant Protection: All applicants must address each of the following elements relating to confidentiality and participant protection. You must describe how you will address these requirements.

1. Protect Clients and Staff From Potential Risks

- Identify and describe any foreseeable physical, medical, psychological, social, and legal risks or potential adverse effects as a result of the project itself or any data collection activity.

- Describe the procedures you will follow to minimize or protect participants against potential risks, including risks to confidentiality.

- Identify plans to provide guidance and assistance in the event there are adverse effects to participants.

- Where appropriate, describe alternative treatments and procedures that may be beneficial to the participants. If you choose not to use these other beneficial treatments, provide the reasons for not using them.

2. Fair Selection of Participants

- Describe the target population(s) for the proposed project. Include age, gender, and racial/ethnic background and note if the population includes homeless youth, foster children, children of substance abusers, pregnant women, or other targeted groups.

- Explain the reasons for including groups of pregnant women, children,

people with mental disabilities, people in institutions, prisoners, and individuals who are likely to be particularly vulnerable to HIV/AIDS.

- Explain the reasons for including or excluding participants.

- Explain how you will recruit and select participants. Identify who will select participants.

3. Absence of Coercion

- Explain if participation in the project is voluntary or required. Identify possible reasons why participation is required, for example, court orders requiring people to participate in a program.

- If you plan to compensate participants, state how participants will be awarded incentives (e.g., money, gifts, etc.).

- State how volunteer participants will be told that they may receive services intervention even if they do not participate in or complete the data collection component of the project.

4. Data Collection

- Identify from whom you will collect data (e.g., from participants themselves, family members, teachers, others). Describe the data collection procedures and specify the sources for obtaining data (e.g., school records, interviews, psychological assessments, questionnaires, observation, or other sources). Where data are to be collected through observational techniques, questionnaires, interviews, or other direct means, describe the data collection setting.

- Identify what type of specimens (e.g., urine, blood) will be used, if any. State if the material will be used just for evaluation or if other use(s) will be made. Also, if needed, describe how the material will be monitored to ensure the safety of participants.

- Provide in Appendix 2, "Data Collection Instruments/Interview Protocols," copies of *all* available data collection instruments and interview protocols that you plan to use.

5. Privacy and Confidentiality

- Explain how you will ensure privacy and confidentiality. Include who will collect data and how it will be collected.

- Describe:

- How you will use data collection instruments.

- Where data will be stored.

- Who will or will not have access to information.

- How the identity of participants will be kept private, for example, through the use of a coding system on data records, limiting access to records,

or storing identifiers separately from data.

Note: If applicable, grantees must agree to maintain the confidentiality of alcohol and drug abuse client records according to the provisions of Title 42 of the Code of Federal Regulations, Part II.

6. Adequate Consent Procedures

- List what information will be given to people who participate in the project. Include the type and purpose of their participation. Identify the data that will be collected, how the data will be used and how you will keep the data private.

- State:

- Whether or not their participation is voluntary.

- Their right to leave the project at any time without problems.

- Possible risks from participation in the project.

- Plans to protect clients from these risks.

- Explain how you will get consent for youth, the elderly, people with limited reading skills, and people who do not use English as their first language.

Note: If the project poses potential physical, medical, psychological, legal, social or other risks, you must obtain written informed consent.

- Indicate if you will obtain informed consent from participants or assent from minors along with consent from their parents or legal guardians. Describe how the consent will be documented. For example: Will you read the consent forms? Will you ask prospective participants questions to be sure they understand the forms? Will you give them copies of what they sign?

- Include, as appropriate, sample consent forms that provide for: (1) Informed consent for participation in service intervention; (2) informed consent for participation in the data collection component of the project; and (3) informed consent for the exchange (releasing or requesting) of confidential information. The sample forms must be included in Appendix 3, "Sample Consent Forms", of your application. If needed, give English translations.

Note: Never imply that the participant waives or appears to waive any legal rights, may not end involvement with the project, or releases your project or its agents from liability for negligence.

- Describe if separate consents will be obtained for different stages or parts of the project. For example, will they be needed for both participant protection in treatment intervention and for the collection and use of data?

- Additionally, if other consents (e.g., consents to release information to others

or gather information from others) will be used in your project, provide a description of the consents. Will individuals who do not consent to having individually identifiable data collected for evaluation purposes be allowed to participate in the project?

7. Risk/Benefit Discussion

Discuss why the risks are reasonable compared to expected benefits and importance of the knowledge from the project.

Protection of Human Subjects Regulations

Depending on the evaluation and data collection requirements of the particular funding opportunity for which you are applying or the evaluation design you propose in your application, you may have to comply with the Protection of Human Subjects Regulations (45 CFR part 46). The NOFA will indicate whether all applicants for a particular funding opportunity must comply with the Protection of Human Subject Regulations.

Applicants must be aware that even if the Protection of Human Subjects Regulations do not apply to all projects funded under a given funding opportunity, the specific evaluation design proposed by the applicant may require compliance with these regulations.

Applicants whose projects must comply with the Protection of Human Subjects Regulations must describe the process for obtaining Institutional Review Board (IRB) approval fully in their applications. While IRB approval is not required at the time of grant award, these applicants will be required, as a condition of award, to provide the documentation that an Assurance of Compliance is on file with the Office for Human Research Protections (OHRP) and that IRB approval has been received prior to enrolling any clients in the proposed project.

Additional information about Protection of Human Subjects Regulations can be obtained on the web at <http://ohrp.osophs.dhhs.gov>. You may also contact OHRP by e-mail (ohrp@osophs.dhhs.gov) or by phone (301-496-7005).

B. Intergovernmental Review (E.O. 12372) Instructions

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR Part 100, sets up a system for State and local review of applications for Federal financial assistance. A current listing of State

Single Points of Contact (SPOCs) is included in the application kit and can be downloaded from the Office of Management and Budget (OMB) Web site at www.whitehouse.gov/omb/grants/spoc.html.

- Check the list to determine whether your State participates in this program. You do not need to do this if you are a federally recognized Indian tribal government.

- If your State participates, contact your SPOC as early as possible to alert him/her to the prospective application(s) and to receive any necessary instructions on the State's review process.

- For proposed projects serving more than one State, you are advised to contact the SPOC of each affiliated State.

- The SPOC should send any State review process recommendations to the following address within 60 days of the application deadline: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17-89, Rockville, Maryland, 20857, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from the NOFA].

C. Public Health System Impact Statement (PHSIS)

The Public Health System Impact Statement or PHSIS (Approved by OMB under control no. 0920-0428; see burden statement below) is intended to keep State and local health officials informed of proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions. State and local governments and Indian tribal government applicants are not subject to the following Public Health System Reporting Requirements.

Community-based, non-governmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected no later than the pertinent receipt date for applications. This PHSIS consists of the following information:

- A copy of the face page of the application (SF 424); and
- A summary of the project, no longer than one page in length, that provides: (1) A description of the population to be served, (2) A summary of the services to be provided, and (3) a description of the coordination planned with appropriate State or local health agencies.

For SAMHSA grants, the appropriate State agencies are the Single State Agencies (SSAs) for substance abuse and mental health. A listing of the SSAs can be found on SAMHSA's Web site at www.samhsa.gov. If the proposed project falls within the jurisdiction of more than one State, you should notify all representative SSAs.

Applicants who are not the SSA must include a copy of a letter transmitting the PHSIS to the SSA in Appendix 4, "Letter to the SSA." The letter must notify the State that, if it wishes to comment on the proposal, its comments should be sent not later than 60 days after the application deadline to: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17-89, Rockville, Maryland, 20857, ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition:

- Applicants may request that the SSA send them a copy of any State comments.
- The applicant must notify the SSA within 30 days of receipt of an award.

[Public reporting burden for the Public Health System Reporting Requirement is estimated to average 10 minutes per response, including the time for copying the face page of SF 424 and the abstract and preparing the letter for mailing. 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 number for this project is 0920-0428. Send comments regarding this burden to CDC Clearance Officer, 1600 Clifton Road, MS D-24, Atlanta, GA 30333, ATTN: PRA (0920-0428).]

Appendix A—Checklist for Application Formatting Requirements

Your application must adhere to these formatting requirements. Failure to do so will result in your application being screened out and returned to you without review. In addition to these formatting requirements, there may be programmatic requirements specified in the NOFA. Please check the NOFA before preparing your application.

- Use the PHS 5161-1 application.
- The 10 application components required for SAMHSA applications must be included (*i.e.*, Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist.)
 - Text must be legible.
 - Paper must be white paper and 8.5" by 11.0" in size.

- Pages must be single-spaced with one column per page.
- Margins must be at least one inch.
- Type size in the Project Narrative cannot exceed an average of 15 characters per inch when measured with a ruler. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)
- Photo reduction or condensation of type cannot be closer than 15 characters per inch or 6 lines per inch.
- Pages cannot have printing on both sides.
- Page limitations specified for the Project Narrative (25 pages) and Appendices 1, 3, and 4 (30 pages) cannot be exceeded.
- Information provided must be sufficient for review.
- Applications must be received by the application deadline. Applications received after this date must have a proof of mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing. Applications not received by the application deadline or postmarked a week prior to the application deadline will not be reviewed.
- Applications that do not comply with the following requirements and any additional program requirements specified in the NOFA, or are otherwise unresponsive to PA guidelines, will be screened out and returned to the applicant without review:
 - Provisions relating to confidentiality, participant protection and the protection of human subjects specified in Section VIII–A of this document.
 - Budgetary limitations as specified in Sections I, II and IV–E of this document.
 - Documentation of nonprofit status as required in the PHS 5161–1.

To facilitate review of your application, follow these additional guidelines. Failure to follow these guidelines will not result in your application being screened out. However, following these guidelines will help reviewers to consider your application.

- Please use black ink and number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.
- Send the original application and two copies to the mailing address in the PA. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD-ROMs.

Appendix B—Glossary

Best Practice: Best practices are practices that incorporate the best objective information currently available regarding effectiveness and acceptability.

Catchment Area: A catchment area is the geographic area from which the target

population to be served by a program will be drawn.

Cooperative Agreement: A cooperative agreement is a form of Federal grant. Cooperative agreements are distinguished from other grants in that, under a cooperative agreement, substantial involvement is anticipated between the awarding office and the recipient during performance of the funded activity. This involvement may include collaboration, participation, or intervention in the activity. HHS awarding offices use grants or cooperative agreements (rather than contracts) when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

Cost-Sharing or Matching: Cost-sharing refers to the value of allowable non-Federal contributions toward the allowable costs of a Federal grant project or program. Such contributions may be cash or in-kind contributions. For SAMHSA grants, cost-sharing or matching is not required, and applications will not be screened out on the basis of cost-sharing. However, applicants often include cash or in-kind contributions in their proposals as evidence of commitment to the proposed project. This is allowed, and this information may be considered by reviewers in evaluating the quality of the application.

Fidelity: Fidelity is the degree to which a specific implementation of a program or practice resembles, adheres to, or is faithful to the evidence-based model on which it is based. Fidelity is formally assessed using rating scales of the major elements of the evidence-based model. A toolkit on how to develop and use fidelity instruments is available from the SAMHSA-funded Evaluation Technical Assistance Center at <http://tecathsri.org> or by calling (617) 876–0426.

Grant: A grant is the funding mechanism used by the Federal Government when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

In-Kind Contribution: In-kind contributions toward a grant project are non-cash contributions (e.g., facilities, space, services) that are derived from non-Federal sources, such as State or sub-State non-Federal revenues, foundation grants, or contributions from other non-Federal public or private entities.

Logic Model: A logic model is a diagrammatic representation of a theoretical framework. A logic model describes the logical linkages among program resources, conditions, strategies, short-term outcomes, and long-term impact. More information on how to develop logics models and examples can be found through the resources listed in Appendix C.

Practice: A practice is any activity, or collective set of activities, intended to

improve outcomes for people with or at risk for substance abuse and/or mental illness. Such activities may include direct service provision, or they may be supportive activities, such as efforts to improve access to and retention in services, organizational efficiency or effectiveness, community readiness, collaboration among stakeholder groups, education, awareness, training, or any other activity that is designed to improve outcomes for people with or at risk for substance abuse or mental illness.

Practice Support System: This term refers to contextual factors that affect practice delivery and effectiveness in the pre-adoption phase, delivery phase, and post-delivery phase, such as (a) community collaboration and consensus building, (b) training and overall readiness of those implementing the practice, and (c) sufficient ongoing supervision for those implementing the practice.

Stakeholder: A stakeholder is an individual, organization, constituent group, or other entity that has an interest in and will be affected by a proposed grant project.

Sustainability: Sustainability is the ability to continue a program or practice after SAMHSA grant funding has ended.

Target Population: The target population is the specific population of people whom a particular program or practice is designed to serve or reach.

Wraparound Service: Wraparound services are non-clinical supportive services—such as child care, vocational, educational, and transportation services—that are designed to improve the individual's access to and retention in the proposed project.

Appendix C—Logic Model Resources

Chen, W.W., Cato, B.M., & Rainford, N. (1998–9). Using a logic model to plan and evaluate a community intervention program: A case study. *International Quarterly of Community Health Education*, 18(4), 449–458.

Edwards, E.D., Seaman, J.R., Drews, J., & Edwards, M.E. (1995). A community approach for Native American drug and alcohol prevention programs: A logic model framework. *Alcoholism Treatment Quarterly*, 13(2), 43–62.

Hernandez, M. & Hodges, S. (2003). *Crafting Logic Models for Systems of Care: Ideas into Action*. [Making children's mental health services successful series, volume 1]. Tampa, FL: University of South Florida, The Louis de la Parte Florida Mental Health Institute, Department of Child & Family Studies. <http://cfs.fmhi.usf.edu> or phone (813) 974-4651

Hernandez, M. & Hodges, S. (2001). Theory-based accountability. In M. Hernandez & S. Hodges (Eds.), *Developing Outcome Strategies in Children's Mental Health*, pp. 21–40. Baltimore: Brookes.

Julian, D.A. (1997). Utilization of the logic model as a system level planning and evaluation device. *Evaluation and Planning*, 20(3), 251–257.

Julian, D.A., Jones, A., & Deyo, D. (1995). Open systems evaluation and the logic model: Program planning and evaluation tools. *Evaluation and Program Planning*, 18(4), 333–341.

Patton, M.Q. (1997). *Utilization-Focused Evaluation* (3rd Ed.), pp. 19, 22, 241. Thousand Oaks, CA: Sage.

Wholey, J.S., Hatry, H.P., Newcome, K.E. (Eds.) (1994). *Handbook of Practical Program Evaluation*. San Francisco, CA: Jossey-Bass Inc.

Dated: November 13, 2003.

Daryl Kade,

Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.

[FR Doc. 03-28875 Filed 11-20-03; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Final Standard Best Practices Planning and Implementation Grants Announcement

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of final Best Practices Planning and Implementation Grants announcement.

SUMMARY: On August 21, 2003, the Substance Abuse and Mental Health Services Administration (SAMHSA) announced plans to change its approach to announcing and soliciting applications for its discretionary grant programs in Fiscal Year (FY) 2004. These changes involved the publication of four standard grant announcements that would provide the basic program design and application instructions for four types of grants—Services Grants, Infrastructure Grants, Best Practices

Planning and Implementation Grants, and Service-to-Science Grants. The four announcements were made available for public review and comment for 60 days. The comments received and changes made to the standard grant announcements are described in a separate **Federal Register** notice. This notice provides the final text for SAMHSA's standard Best Practices Planning and Implementation Grants announcement.

Authority: Sections 509, 516, and 520A of the Public Health Service Act.

DATES: Use of the standard Best Practices Planning and Implementation Grants announcement will be effective November 21, 2003. The standard Best Practices Planning and Implementation Grants announcement must be used in conjunction with *separate* Notices of Funding Availability (NOFAs) that will provide application due dates and other key dates for specific SAMHSA grant funding opportunities.

ADDRESSES: Questions about SAMHSA's standard Best Practices Planning and Implementation Grants announcement may be directed to Cathy Friedman, M.A., Office of Policy, Planning and Budget, 5600 Fishers Lane, Room 12C-26, Rockville, Maryland, 20857. Fax: (301-594-6159) E-mail: cfriedma@samhsa.gov.

FOR FURTHER INFORMATION CONTACT: Cathy Friedman, M.A., Office of Policy, Planning and Budget, 5600 Fishers Lane, Room 12C-26, Rockville, Maryland, 20857. Fax: (301-594-6159) E-mail: cfriedma@samhsa.gov. Phone: (301) 443-1910.

SUPPLEMENTARY INFORMATION: Starting in FY 2004, SAMHSA is changing its

approach to announcing and soliciting applications for its discretionary grants. SAMHSA will publish four standard grant announcements that will describe the general program design and provide application instructions for four types of grants—Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. The text for the final standard Best Practices Planning and Implementation Grants announcement is provided below.

The standard Best Practices Planning and Implementation Grants announcement will be posted on SAMHSA's Web page (www.samhsa.gov) and will be available from SAMHSA's clearinghouses on an ongoing basis. The standard announcements will be used in conjunction with brief Notices of Funding Availability (NOFAs) that will announce the availability of funds for specific grant funding opportunities within each of the standard grant programs (e.g., Homeless Treatment grants, Statewide Family Network grants, HIV/AIDS and Substance Abuse Prevention Planning Grants, etc.).

Best Practices Planning and Implementation Grants BPPI 04 (Initial Announcement)

Catalogue of Federal Domestic Assistance (CFDA) No.: 93.243 (unless otherwise specified in a NOFA in the **Federal Register** and on www.grants.gov).

Authority: Sections 509, 516 and/or 520A of the Public Health Service Act, as amended and subject to the availability of funds (unless otherwise specified in a NOFA in the **Federal Register** and on www.grants.gov).

KEY DATES

Application Deadline	This Program Announcement provides instructions and guidelines for multiple funding opportunities. Application deadlines for specific funding opportunities will be published in Notices of Funding Availability (NOFAs) in the Federal Register and on www.grants.gov .
Intergovernmental Review	(E.O. 12372) Letters from State Single Point of Contact (SPOC) are due 60 days after application deadline.
Public Health System Impact	Statement (PHSIS)/Single State Agency Coordination Applicants must send the PHSIS to appropriate State and local health agencies by application deadline. Comments from Single State Agency are due 60 days after application deadline.

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I. Funding Opportunity Description

A. Introduction

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces its intent to solicit applications for Best Practices Planning and Implementation (BPPI) grants for substance abuse prevention, substance abuse treatment, and mental health services. These grants will help communities and providers identify substance abuse prevention, substance abuse treatment, and/or mental health practices, develop strategic plans for implementing/adapting those practices, and pilot-test the practices. The practices proposed by applicants for SAMHSA's BPPI grants must incorporate the best objective information available regarding effectiveness and acceptability. Often, these practices will have strong evidence of effectiveness. However, because the evidence base is limited in some areas, SAMHSA may fund some practices for which the evidence base, while limited, is sound.

SAMHSA also funds grants under three other standard grant announcements:

- *Services Grants* provide funding to implement substance abuse and mental health services.
- *Infrastructure Grants* support identification and implementation of systems changes but are not designed to fund services.
- *Service to Science Grants* document and evaluate innovative practices that address critical substance abuse and mental health service gaps but that have not yet been formally evaluated.

This announcement describes the general program design and provides application instructions for all SAMHSA BPPI Grants. The availability of funds for specific BPPI Grants will be announced in supplementary Notices of Funding Availability (NOFAs) in the **Federal Register** and at www.grants.gov—the Federal grant announcement Web page.

Typically, funding for BPPI Grants will be targeted to specific populations and/or issue areas, which will be

specified in the NOFAs. The NOFAs will also:

- Specify total funding available for the first year of the grants and the expected size and number of awards;
- Provide the application deadline;
- Note any specific program requirements for each funding opportunity; and
- Include any limitations or exceptions to the general provisions in this announcement (e.g., eligibility, award size, allowable activities).

It is, therefore, critical that you consult the NOFA as well as this announcement in developing your grant application.

B. Expectations

SAMHSA's BPPI program promotes the use of practices that incorporate the best objective information available regarding effectiveness and acceptability. SAMHSA refers to these as "best practices." BPPI grants may address needs in the areas of substance abuse prevention, substance abuse treatment and/or mental health services. SAMHSA understands that the "best practices" proposed for BPPI grants may need to be adapted to certain populations. Therefore, SAMHSA's BPPI grants support adaptation and evaluation of best practices in addition to planning and implementation.

1. Documenting the Evidence-Base for Selected Practices

Applicants must document in their applications that the practices they propose to implement are evidence-based practices. In addition, applicants must justify use of the proposed practices for the target population along with any adaptations or modifications necessary to meet the unique needs of the target population or otherwise increase the likelihood of achieving positive outcomes. Further guidance on each of these requirements is provided below.

Documenting the Evidence-Based Practice/Service. SAMHSA has already determined that certain practices are solidly evidence-based practices and encourages applicants to select practices from the following sources (though this is not required):

- SAMHSA's National Registry of Effective Programs (NREP) (see Appendix C).
- Center for Mental Health Services (CMHS) Evidence Based Practice Tool Kits (see Appendix D).
- List of Evidence-Based Substance Abuse Treatment Practices (see Appendix E).

- Additional practices identified in the NOFA for a specific funding opportunity, if applicable.

Applicants proposing practices that are not included in the above-referenced sources must provide a narrative justification that summarizes the evidence for effectiveness and acceptability of the proposed practice. The preferred evidence of effectiveness and acceptability will include the findings from clinical trials, efficacy and/or effectiveness studies published in the peer-reviewed literature.

In areas where little or no research has been published in the peer-reviewed scientific literature, the applicant may present evidence involving studies that have not been published in the peer-reviewed research literature and/or documents describing formal consensus among recognized experts. If consensus documents are presented, they must describe consensus among multiple experts whose work is recognized and respected by others in the field. Local recognition of an individual as a respected or influential person at the community level is not considered a "recognized expert" for this purpose.

In presenting evidence in support of the proposed practice, applicants must show that the evidence presented is the best objective information available.

Justifying Selection of the Practice/Service for the Target Population. Regardless of the strength of the evidence-base for the practice, all applicants must show that the proposed practice is appropriate for the proposed target population. Ideally, this evidence will include research findings on effectiveness and acceptability specific to the proposed target population. However, if such evidence is not available, the applicant should provide a justification for using the proposed practice with the target population. This justification might involve, for example, a description of adaptations to the proposed practice based on other research involving the target population.

Justifying Adaptations/Modifications of the Proposed Practice. SAMHSA has found that a high degree of faithfulness or "fidelity" (see Glossary) to the original model for an evidence-based practice increases the likelihood that positive outcomes will be achieved when the model is used by others. Therefore, SAMHSA encourages fidelity to the original evidence-based practice to be implemented. However, SAMHSA recognizes that adaptations or modifications to the original model may be necessary for a variety of reasons:

- To allow implementers to use resources efficiently.

- To adjust for specific needs of the client population.
- To address unique characteristics of the local community where the practice will be implemented.

All applicants must describe and justify any adaptations or modifications to the proposed practice that will be made.

2. Program Design

SAMHSA will fund BPPI grants in two phases. Phase I is a planning and consensus-building phase that supports grantees for up to 18 months. Phase II is a pilot, adaptation, implementation, and evaluation phase that supports grantees for up to 3 years.

Phase I: Planning and Consensus Building. The goals of Phase I are to achieve consensus among community stakeholders to adopt a best practice and to engage in strategic planning for its implementation. Phase I grants may include, but are not limited to, the following types of activities:

- Build and maintain a coalition of stakeholders to fund, oversee, use, and provide a sustainable best practice.
- Train and educate key stakeholders about the best practice.
- Consult experts about the practice.
- Consult leaders from other communities about their experiences in implementing the practice.
- Reimburse stakeholders for their transportation or child care costs.
- Engage professionals to help build consensus and plan strategy.
- Adapt the best practice to community needs without sacrificing its effectiveness.
- Identify and obtain the commitment of permanent sources to fund the best practice.
- Design the evaluation of the best practice.
- Evaluate the process of consensus building among stakeholders (required).

Phase II: Pilot Test, Adaptation, Implementation, and Evaluation. The goals of Phase II grants are to pilot test and evaluate the best practices before full implementation, modify strategic/financial plans, and prepare for full-scale implementation. Implementation does not include service delivery. The following are examples of activities that can be funded during Phase II:

- Pilot test the practice on a sample of service recipients and evaluate the pilot test.
- Modify the best practice based on consultation with stakeholders and practice experts, other community experiences, and pilot test results.
- Revise the manual or documentation that describes in detail how the best practice was modified.

- Maintain the coalition of stakeholders to oversee Phase II activities.
- Secure consultants to make changes required to implement and finance the best practice.
- Make organizational changes (e.g., hiring staff) necessary to implement the best practice.
- Provide necessary education, training, and technical assistance for staff.

Up to 25% of the Phase II grant award may be used to evaluate the pilot test of the best practice. During the course of a Phase II award, SAMHSA will provide funding for direct services as part of the pilot test.

3. Performance Requirements

All grantees will be required to meet the following evaluation and performance requirements. Applicants are not required to receive a Phase I award before applying for a Phase II award. However, all Phase II applicants must meet the Phase I performance requirements (i.e., documentation that consensus has been achieved and that a strategic plan is in place) before applying for a Phase II award. Phase II applicants need not have been Phase I grantees.

Phase I: Planning and Consensus Building. By the end of Phase I, grantees will be required to provide documentation that consensus has been achieved for adopting a best practice. That documentation must include:

- A report that summarizes the evaluation of the consensus building process.
- A description of how key stakeholders were included in the consensus building.
- Letters of support or other demonstration of stakeholders' commitment to adopt the practice.
- A strategic plan for implementing the best practice that includes a financing plan, signed by the funding source(s) that will provide the resources necessary to address barriers and implement a sustainable best practice.

[Note: if it is not possible for a grantee to complete a strategic plan, grantees will be required to provide an analysis of progress made and barriers to completing the strategic plan instead.]

Phase II: Pilot Test, Adaptation, Implementation, and Evaluation. By the end of Phase II, grantees must provide the following information:

- Pilot test results.
- Results from process/outcome evaluation of full Phase II project.
- In cases where the implementation was judged a success, a manual describing the practice in detail for

replication of the practice. The manual should explain how the project team determined the degree of success, referring to qualitative and quantitative data.

- In cases where the implementation was judged not to be successful, a report detailing the lessons learned, with recommendations for other programs interested in implementing the best practice. The report should explain how the project team determined the degree of success, referring to qualitative and quantitative data.

- Documentation that staff are trained in the practice and of a mechanism for training new staff.

- Process evaluation results that describe how the practice was operationalized, including changes in the organizational infrastructure, permanent funding sources, and staff consultation and training activities.

- Outcome evaluation results that describe:

- Demographic characteristics of the clients served.
- Service utilization.
- Practice outcomes.
- Client satisfaction.
- Fidelity of the modified practice to the best practice.
- Plans for fully implementing the best practice after the end of the Phase II award.

4. Performance Measurement

The Government Performance and Results Act of 1993 (Pub. L. 103-62, or "GPRA") requires all Federal agencies to set program performance targets and report annually on the degree to which the previous year's targets were met.

Agencies are expected to evaluate their programs regularly and to use results of these evaluations to explain their successes and failures and justify requests for funding.

To meet the GPRA requirements, SAMHSA must collect performance data (i.e., "GPRA data") from grantees. Grantees are required to report these GPRA data to SAMHSA on a timely basis.

Specifically, grantees will be required to provide data on a set of required measures, as specified in the NOFA. The data collection tools to be used for reporting the required data will be provided in the application kits distributed by SAMHSA's clearinghouses and posted on SAMHSA's Web site along with each NOFA. In your application, you must demonstrate your ability to collect and report on these measures, and you may be required to provide some baseline data.

The terms and conditions of the grant award also will specify the data to be submitted and the schedule for submission. Grantees will be required to adhere to these terms and conditions of award.

Applicants should be aware that SAMHSA is working to develop a set of required core performance measures for each of SAMHSA's standard grants (*i.e.*, Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants). As this effort proceeds, some of the data collection and reporting requirements included in SAMHSA's NOFAs may change. All grantees will be expected to comply with any changes in data collection requirements that occur during the grantee's project period.

5. Evaluation

Grantees must evaluate their projects, and applicants are required to describe their evaluation plans in their applications. The evaluation should be designed to provide regular feedback to the project to improve implementation of the best practice and, ultimately, the outcomes that will result from implementation of the best practice.

Phase I grantees must conduct a process evaluation. Phase II grantees must conduct a process and outcome evaluation of the pilot test, as well as a process and outcome evaluation of the full Phase II project.

Process and outcome evaluations must measure change relating to project goals and objectives over time compared to baseline information. Both Phase I and Phase II grantees must include the required performance measures described in the NOFA in their evaluations. Control or comparison groups are not required. You must consider your evaluation plan when preparing the project budget.

Process components should address issues such as:

- How closely did implementation match the plan?
- What types of deviation from the plan occurred?
- What led to the deviations?
- What effect did the deviations have on the intervention and evaluation?
- For pilot test evaluations, who provided (program, staff) what services (modality, type, intensity, duration), to whom (individual characteristics), in what context (system, community), and at what cost (facilities, personnel, dollars)?

Outcome components should address issues such as:

- What was the effect of the project on the service delivery system and/or on participants in the project?

- What program/contextual factors were associated with outcomes?

- What individual factors were associated with outcomes?

- How durable were the effects?

No more than 20% of the total Phase I grant award and 25% of the total Phase II grant award may be used for evaluation and data collection.

6. Grantee Meetings

You must plan to send a minimum of two people (including the Project Director) to at least one joint grantee meeting in each year of the grant, and you must include funding for this travel in your budget. At these meetings, grantees will present the results of their projects and Federal staff will provide technical assistance. Each meeting will be 3 days. These meetings will usually be held in the Washington, DC, area, and attendance is mandatory.

II. Award Information

A. Award Amount

The NOFA will specify the expected award amount for each funding opportunity. Regardless of the amount specified, the actual award amount will depend on the availability of funds.

Awards for SAMHSA's BPPI grants will be made in two phases:

Phase I—Phase I awards are expected to range from \$150,000–\$200,000 in total costs (direct and indirect) for a project period of up to 18 months.

Phase II—Phase II awards will range from \$300,000–\$500,000 per year in total costs (direct and indirect) for a project period of up to 3 years.

Applications with proposed budgets that exceed the allowable amount as specified in the NOFA in any year of the proposed project will be screened out and will not be reviewed. Annual continuation awards will depend on the availability of funds, grantee progress in meeting project goals and objectives, and timely submission of required data and reports.

B. Funding Mechanism

The NOFA will indicate whether awards for each funding opportunity will be made as grants or cooperative agreements (see the Glossary in Appendix B for further explanation of these funding mechanisms). For cooperative agreements, the NOFA will describe the nature of Federal involvement in project performance and specify roles and responsibilities of grantees and Federal staff.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants are domestic public and private *nonprofit* entities. For example, State, local or tribal governments; public or private universities and colleges; community- and faith-based organizations; and tribal organizations may apply. The statutory authority for this program precludes grants to for-profit organizations. The NOFA will indicate any limitations on eligibility.

B. Cost-Sharing

Cost-sharing (see Glossary) is not required in this program, and applications will not be screened out on the basis of cost-sharing. However, you may include cash or in-kind (see Glossary) contributions in your proposal as evidence of commitment to the proposed project.

C. Other

SAMHSA applicants must comply with certain program requirements, including:

- Budgetary limitations as specified in Sections I, II, and IV-E of this document; and

- Documentation of nonprofit status as required in the PHS 5161–1.

You also must comply with any additional program requirements specified in the NOFA, such as the required signature of certain officials on the face page of the application and/or required memoranda of understanding with certain signatories.

Applications that do not comply with the eligibility and specific program requirements for the funding opportunity for which the application is submitted will be screened out and will not be reviewed.

IV. Application and Submission Information

(To ensure that you have met all submission requirements, a checklist is provided for your use in Appendix A of this document.)

A. Address To Request Application Package

You may request a complete application kit by calling one of SAMHSA's national clearinghouses:

- For substance abuse prevention or treatment grants, call the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1–800–729–6686.

- For mental health grants, call the National Mental Health Information Center at 1–800–789-CMHS (2647).

You also may download the required documents from the SAMHSA Web site

at www.samhsa.gov. Click on "grant opportunities."

Additional materials available on this Web site include:

- A technical assistance manual for potential applicants;
- Standard terms and conditions for SAMHSA grants;
- Guidelines and policies that relate to SAMHSA grants (e.g., guidelines on cultural competence, consumer and family participation, and evaluation); and
- Enhanced instructions for completing the PHS 5161-1 application.

B. Content and Form of Application Submission

1. Required Documents

SAMHSA application kits include the following documents:

- PHS 5161-1 (revised July 2000)—Includes the face page, budget forms, assurances, certification, and checklist. Applicants must use the PHS 5161-1 for their application, unless otherwise specified in the NOFA. Applications that are not submitted on the required application form (i.e., the PHS 5161-1 in most situations) will be screened out and will not be reviewed.
- Program Announcement (PA) —Includes instructions for the grant application. This document is the PA.
- Notice of Funding Availability (NOFA)—Provides specific information about availability of funds, as well as any exceptions or limitations to provisions in the PA. The NOFAs will be published in the **Federal Register** as well as on the Federal grants Web site (www.grants.gov).

You must use all of the above documents in completing your application.

2. Required Application Components

To ensure equitable treatment of all applications, SAMHSA will accept only complete applications for review. In order for your application to be complete, it must include the required ten application components (Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist). Applications that do not contain the required components will be screened out and will not be reviewed.

- *Face Page*—Use Standard Form (SF) 424, which is part of the PHS 5161-1. [Note: Beginning October 1, 2003, applicants will need to provide a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. SAMHSA

applicants will be required to provide their DUNS number on the face page of the application. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access the Dun and Bradstreet Web site at www.dunandbradstreet.com or call 1-866-705-5711. To expedite the process, let Dun and Bradstreet know that you are a public/private nonprofit organization getting ready to submit a Federal grant application.]

- *Abstract*—Your total abstract should be no longer than 35 lines. In the first five lines or less of your abstract, write a summary of your project that can be used, if your project is funded, in publications, reporting to Congress, or press releases.

- *Table of Contents*—Include page numbers for each of the major sections of your application and for each appendix.

- *Budget Form*—Use SF 424A, which is part of the PHS 5161-1. Fill out Sections B, C, and E of the SF 424A.

- *Project Narrative and Supporting Documentation*—The Project Narrative describes your project. It consists of Sections A through E for Phase I and Section A through D for Phase II. Sections A-E (Phase I) together may not be longer than 30 pages and Sections A through D (Phase II) together may not be longer than 30 pages. More detailed instructions for completing each section of the Project Narrative are provided in "Section V—Application Review Information" of this document.

The Supporting Documentation provides additional information necessary for the review of your application. This supporting documentation should be provided immediately following your Project Narrative in Sections F through I. (**Note:** Phase II applications will not have a Section E.) There are no page limits for these sections, except for Section H, the Biographical Sketches/Job Descriptions.

- *Section F*—Literature Citations.

This section must contain complete citations, including titles and all authors, for any literature you cite in your application.

- *Section G*—Budget Justification, Existing Resources, Other Support. You must provide a narrative justification of the items included in your proposed budget, as well as a description of existing resources and other support you expect to receive for the proposed project. If you are applying for a Phase II award, show that no more than 25% of the total grant award will be used for evaluation of the pilot test of the best practice.

- *Section H*—Biographical Sketches and Job Descriptions.

- Include a biographical sketch for the Project Director and other key positions. Each sketch should be 2 pages or less. If the person has not been hired, include a letter of commitment from the individual with a current biographical sketch.

- Include job descriptions for key personnel. Job descriptions should be no longer than 1 page each.

- Sample sketches and job descriptions are listed on page 22, Item 6 in the Program Narrative section of the PHS 5161-1.

- *Section 1*—Confidentiality and SAMHSA Participant Protection/Human Subjects. Section VIII-A of this document describes requirements for the protection of the confidentiality, rights and safety of participants in SAMHSA-funded activities. This section also includes guidelines for completing this part of your application.

- Appendices 1 through 5—Use only the appendices listed below. Do not use more than 30 pages for Appendices 1, 3, 4 and 6. There are no page limitations for Appendices 2 and 5. Do not use appendices to extend or replace any of the sections of the Project Narrative unless specifically required in the NOFA. Reviewers will not consider them if you do.

- *Appendix 1*: Letters of Support.

- *Appendix 2*: Data Collection Instruments/Interview Protocols.

- *Appendix 3*: Sample Consent Forms.

- *Appendix 4*: Letter to the SSA (if applicable; see Section VIII-C of this document).

- *Appendix 5*: A copy of the State or County Strategic Plan, a State or county needs assessment, or a letter from the State or county indicating that the proposed project addresses a State- or county-identified priority.

- *Appendix 6*: Evidence of Intent to Adopt (Phase II only).

- *Assurances*—Non-Construction Programs. Use Standard Form 424B found in PHS 5161-1. Some applicants will be required to complete the Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations Form SMA 170. If this assurance applies to a specific funding opportunity, it will be posted on SAMHSA's Web site with the NOFA and provided in the application kits available at SAMHSA's clearinghouse (NCADI).

- *Certifications*—Use the "Certifications" forms found in PHS 5161-1.

- *Disclosure of Lobbying Activities*—Use Standard Form LLL found in PHS 5161-1. Federal law prohibits the use of appropriated funds for publicity or

propaganda purposes, or for the preparation, distribution, or use of information designed to support or defeat legislation pending before the Congress or State legislatures. This includes "grass roots" lobbying, which consists of appeals to members of the public suggesting that they contact their elected representatives to indicate their support for or opposition to pending legislation or to urge those representatives to vote in a particular way.

- *Checklist*—Use the Checklist found in PHS 5161-1. The Checklist ensures that you have obtained the proper signatures, assurances and certifications and is the last page of your application.

3. Application Formatting Requirements

Applicants also must comply with the following basic application requirements. Applications that do not comply with these requirements will be screened out and will not be reviewed.

- Text must be legible.
- Paper must be white and 8.5" by 11.0" in size.
- Pages must be typed single-spaced with one column per page.
- Page margins must be at least one inch.
- Type size in the Project Narrative cannot exceed an average of 15 characters per inch when measured with a ruler. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)
- Photo reduction or condensation of type cannot be closer than 15 characters per inch or 6 lines per inch.
- Pages cannot have printing on both sides.
- Page limitations specified for the Project Narrative and Appendices cannot be exceeded.
- Information provided must be sufficient for review.

To facilitate review of your application, follow these additional guidelines:

- Applications should be prepared using black ink. This improves the quality of the copies of applications that are provided to reviewers.
- Do not use heavy or light-weight paper or any material that cannot be photocopied using automatic photocopying machines. Odd-sized and oversized attachments, such as posters, will not be copied or sent to reviewers. Do not send videotapes, audiotapes, or CD-ROMs.
- Pages should be numbered consecutively from beginning to end so that information can be easily located during review of the application. For example, the cover page should be labeled "page 1," the abstract page

should be "page 2," and the table of contents page should be "page 3." Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue in the sequence.

C. Submission Dates and Times

Deadlines for submission of applications for specific funding opportunities will be published in the NOFAs in the **Federal Register** and posted on the Federal grants Web site (www.grants.gov). Your application must be received by the application deadline. Applications received after this date must have a proof-of-mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing.

You will be notified by postal mail that your application has been received.

Applications not received by the application deadline or not postmarked by a week prior to the application deadline will be screened out and will not be reviewed.

D. Intergovernmental Review (E.O. 12372) Requirements

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. Instructions for this review are included in Section VIII-B of this document. Section VIII-C provides instructions for the Public Health System Impact Statement (PHSIS) and submission of comments from the Single State Agency (SSA).

E. Funding Limitations/Restrictions

Cost principles describing allowable and unallowable expenditures for Federal grantees, including SAMHSA grantees, are provided in the following documents:

- Institutions of Higher Education: OMB Circular A-21.
- State and Local Governments: OMB Circular A-87.
- Nonprofit Organizations: OMB Circular A-122.
- Appendix E Hospitals: 45 CFR Part 74.

In addition, SAMHSA BPPI Grant recipients must comply with the following funding restrictions:

- No more than 25% of Phase II funding may be used to evaluate the pilot test.
- BPPI grant funds may not be used to:
 - Pay for any lease beyond the project period.

- Provide services to incarcerated populations (defined as those persons in jail, prison, detention facilities, or in custody where they are not free to move about in the community).

- Pay for the purchase or construction of any building or structure to house any part of the program. (Applicants may request no more than \$75,000 for renovations and alterations of existing facilities, if appropriate and necessary to the project.)

- Provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible.)

- Pay for housing other than residential mental health and/or substance abuse treatment.

- Provide inpatient treatment or hospital-based detoxification services. Residential services are not considered to be inpatient or hospital-based services.

- Pay for incentives to induce clients to enter treatment. However, a grantee or treatment provider may provide up to \$20 or equivalent (coupons, bus tokens, gifts, childcare, and vouchers) to clients as incentives to participate in required data collection follow-up. This amount may be paid for participation in each required interview.

- Implement syringe exchange programs, such as the purchase and distribution of syringes and/or needles.

- Pay for pharmacologies for HIV antiretroviral therapy, sexually transmitted diseases (STDs)/sexually transmitted illness (STI), TB, and hepatitis B and C, or for psychotropic drugs.

F. Other Submission Requirements

1. Where To Send Applications

Send applications to the following address: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17-89, Rockville, Maryland 20857.

Be sure to include the funding announcement number from the NOFA in item number 10 on the face page of the application. If you require a phone number for delivery, you may use (301) 443-4266.

2. How to Send Applications

Mail an original application and 2 copies (including appendices) to the mailing address provided above. The original and copies must not be bound. Do not use staples, paper clips, or fasteners. Nothing should be attached, stapled, folded, or pasted.

You must use a recognized commercial or governmental carrier. Hand carried applications will not be accepted. Faxed or e-mailed applications will not be accepted.

V. Application Review Information

A. Evaluation Criteria

Your application will be reviewed and scored according to the quality of your response to the requirements listed below for developing the Project Narrative (Sections A–E for Phase I applications and A–D for Phase II applications). These sections describe what you intend to do with your project.

- In developing the Project Narrative section of your application, use these instructions, which have been tailored to this program. These are to be used instead of the “Program Narrative” instructions found in the PHS 5161–1.

- The Project Narrative may be no longer than 30 pages.

- You must use the sections/headings listed below in developing your Project Narrative. Be sure to place the required information in the correct section, or it will not be considered. Your application will be scored according to how well you address the requirements for each section of the Project Narrative.

- Reviewers will be looking for evidence of cultural competence in each section of the Project Narrative. Points will be assigned based on how well you address the cultural competence aspects of the evaluation criteria. SAMHSA’s guidelines for cultural competence can be found on the SAMHSA Web site at <http://www.samhsa.gov>. Click on “Grant Opportunities.”

- The Supporting Documentation you provide in Sections F–I and Appendices 1–5 will be considered by reviewers in assessing your response, along with the material in the Project Narrative.

- The number of points after each heading is the maximum number of points a review committee may assign to that section of your Project Narrative. Bullet statements in each section do not have points assigned to them. They are provided to invite the attention of applicants and reviewers to important areas within the criterion.

1. Phase I Criteria

Section A: Statement of Need (10 Points)

- Describe the environment (organization, community, city, or State) where the project will be implemented.

- Describe the target population (see Glossary) as well as the geographic area to be served, and justify the selection of both. Include numbers to be served and demographic information. Discuss the

target population’s language, beliefs, norms and values, as well as socioeconomic factors that must be considered in delivering programs to this population.

- Describe the problem the project will address. Documentation of the problem may come from local data or trend analyses, State data (e.g., from State Needs Assessments), and/or national data (e.g., from SAMHSA’s National Household Survey on Drug Abuse and Health or from National Center for Health Statistics/Centers for Disease Control reports). For data sources that are not well known, provide sufficient information on how the data were collected so reviewers can assess the reliability and validity of the data.

- Non-tribal applicants must show that identified needs are consistent with the priorities of the State or county that has primary responsibility for the service delivery system. Include, in Appendix 5, a copy of the State or County Strategic Plan, a State or county needs assessment, or a letter from the State or county indicating that the proposed project addresses a State-or county-identified priority. Tribal applicants must provide similar documentation relating to tribal priorities.

- Describe the best practice selected and how it will impact the problem.

- Check the NOFA for any additional requirements.

Section B: Proposed Evidence-Based Practice (30 Points)

- Clearly state the purpose, goals and objectives of your proposed project. Describe how achievement of goals will address the needs identified in Section A. Provide a logic model (see Glossary) that links need, key components of the proposed project, and goals/objectives/outcomes of the proposed project.

- Identify the evidenced based practice that you propose to implement. Describe the evidence-base for the proposed practice and show that it incorporates the best objective information available regarding effectiveness and acceptability. Follow the instructions provided in #1, #2 or #3 below, as appropriate. Depending on the evidence you provide, you may follow more than one set of instructions:

1. *If you are proposing to implement a practice included in NREP (see Appendix C), one of the CMHS tool-kits on evidence-based practices (see Appendix D), the list of Effective Substance Abuse Treatment Practices (see Appendix E), or the NOFA (if applicable), simply identify the practice and state the source from which it was*

selected. You do not need to provide further evidence of effectiveness.

2. *If you are providing evidence that includes scientific studies published in the peer-reviewed literature or other studies that have not been published, describe the extent to which:*

- The practice has been evaluated and the quality of the evaluation studies (e.g., whether they are descriptive, quasi-experimental studies, or experimental studies)

- The practice has demonstrated positive outcomes and for what populations the positive outcomes have been demonstrated

- The practice has been documented (e.g., through development of guidelines, tool kits, treatment protocols, and/or manuals) and replicated

- Fidelity measures have been developed (e.g., no measures developed, key components identified, or fidelity measures developed)

3. *If you are providing evidence based on a formal consensus process involving recognized experts in the field, describe:*

- The experts involved in developing consensus on the proposed service/practice (e.g., members of an expert panel formally convened by SAMHSA, NIH, the Institute of Medicine or other nationally recognized organization). The consensus must have been developed by a group of experts whose work is recognized and respected by others in the field. Local recognition of an individual as a respected or influential person at the community level is not considered a “recognized expert” for this purpose.

- The nature of the consensus that has been reached and the process used to reach consensus

- The extent to which the consensus has been documented (e.g., in a consensus panel report, meeting minutes, or an accepted standard practice in the field)

- Any empirical evidence (whether formally published or not) supporting the effectiveness of the proposed services/practice

- The rationale for concluding that further empirical evidence does not exist to support the effectiveness of the proposed services/practice

- Justify the use of the proposed practice for the target population. Describe the types of modifications/adaptations that may be necessary to meet the needs of the target population, and describe how you will make a final determination about the adaptations/

modifications to be made to meet the needs of the population.

- Identify any additional adaptations or modifications that may be necessary to successfully implement the proposed practice in the target community.

Describe how you will make a final determination about the adaptations/modifications to be made.

- Describe how the proposed project will address issues of age, race, ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population, while retaining fidelity to the chosen practice.

- Check the NOFA for any additional requirements.

Section C: Proposed Implementation Approach (25 Points)

- Describe how the proposed grant project will be implemented. Provide a realistic time line for the project (chart or graph) showing key activities, milestones, and responsible staff. **[Note:** The timeline should be part of the Project Narrative. It should not be placed in an appendix.]

- Describe the strategies or models that will be used to build consensus, including a description of how key stakeholders (see Glossary) will be educated about the best practice. Describe potential barriers to achieving consensus among stakeholders. What resources and plans will you use to overcome these barriers?

- Describe the process that will be used to develop a strategic plan to implement the best practice. Address such issues as needs assessment, identification of specific milestones that must be achieved in order to implement the best practice, and plans for assigning responsibility for achieving milestones among participating organizations/stakeholders. Identify potential funding source(s) that will help implement the best practice. Describe how the funder(s) will join in the consensus building and strategic planning.

- Describe the key stakeholders (including representatives of the target population), how they were selected for participation in the project, and how they represent the community.

- Describe the involvement of key stakeholders in the proposed project, including roles and responsibilities of each stakeholder. Clearly demonstrate each stakeholder's commitment to the consensus building and strategic planning processes. Attach letters of support and other documents showing stakeholder commitment in Appendix 1: Letters of Support.

- Describe how the project components will be embedded within the existing service delivery system,

including other SAMHSA-funded projects, if applicable.

- Check the NOFA for any additional requirements.

Section D: Management Plan and Staffing (20 Points)

- Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing culturally appropriate/competent services.

- Provide a list of staff members who will conduct the project, showing the role of each and their level of effort and qualifications. Include the Project Director and other key personnel, including evaluators and database management personnel.

- Provide evidence that the service staff proposed to conduct the evidence-based practice have the level of abilities and experience necessary to implement the practice with fidelity to the model, once they have received any necessary training.

- Identify the project staff or contractor(s) who will develop the implementation manual, and demonstrate that they have the requisite skills and experience.

- Describe the racial/ethnic characteristics of key staff and indicate if any are members of the target population/community. If the target population is multi-linguistic, indicate if the staffing pattern includes bilingual or bicultural individuals.

- If you plan to have an advisory body, describe its composition, roles, and frequency of meetings.

- Describe the resources available for the proposed project (e.g., facilities, equipment), and provide evidence that services will be provided in a location that is adequate, accessible, compliant with the Americans with Disabilities Act (ADA), and amenable to the target population.

- Check the NOFA for any additional requirements.

Section E: Evaluation Design and Analysis (15 Points)

- Describe the design for evaluating the consensus building and strategic planning processes. Include a detailed discussion of how all variables (e.g., community representation and stakeholder support) will be defined and measured. Explain how the evaluation plan will ensure that the decision to adopt is an accurate reflection of the stakeholders' intent.

- Document your ability to collect and report on the required performance measures as specified in the NOFA,

including data required by SAMHSA to meet GPR requirements. Specify and justify any additional measures you plan to use for your grant project.

- Describe the process for providing regular feedback from evaluation activities to the Project Director and participants.

- Describe plans for data collection, management, analysis, interpretation and reporting. Describe the existing approach to the collection of relevant data, along with any necessary modifications.

- Discuss the reliability and validity of evaluation methods and instruments(s) in terms of the gender/age/ culture of the target population.

- Check the NOFA for any additional requirements.

2. Phase II Criteria

Section A: Need, Justification of Best Practice, and Readiness (30 Points)

If you previously received a Phase I BBPI award and are applying for a Phase II award to continue the project, include the following information:

- Describe briefly the target population (see Glossary), setting, need and best practice approved for the Phase I award.

- Describe and justify any changes to the target population and setting. Discuss the factors that led to a decision change in the target population and setting.

- Describe any changes in the need for the best practice in the target community. The statement of need should include a clearly established baseline for the project. Documentation of need may come from a variety of qualitative and quantitative sources. The quantitative data could come from local data or trend analyses, State data (e.g., from State Needs Assessments), and/or national data (e.g., from SAMHSA's National Household Survey on Drug Abuse and Health or from National Center for Health Statistics/Centers for Disease Control reports). For data sources that are not well known, provide sufficient information on how the data were collected so reviewers can assess the reliability and validity of the data.

- Provide an updated projection of the number of individuals to be served as well as demographic information. Discuss the target population's language, beliefs, norms and values, as well as socioeconomic factors that must be considered in delivering programs to this population.

- Describe and justify any additional modifications or adaptations to the best practice as compared to the practice approved for your Phase I project.

- Provide evidence that the community of stakeholders (see Glossary) achieved a “decision to adopt” the practice. Attach a copy of the Phase I process evaluation or other evidence including contracts, memoranda of agreement, administrative memos, or other documents signed by key stakeholders that show their firm commitment to support the practice. Attach these supporting documents in Appendix 6: Evidence of Intent to Adopt.

- Provide and describe the financing plan. Include anticipated costs and sources of revenue that will maintain the practice. Attach the financing plan, signed by the funding source(s), stating their intent to fund in Appendix 6: Evidence of Intent to Adopt.

- Check the NOFA for any additional requirements.

If you are applying for a Phase II award but did not previously receive a Phase I award, include the following information:

- Clearly state the purpose, goals and objectives of your proposed project. Describe how achievement of goals will produce meaningful and relevant results. Provide a logic model (see Glossary) that links need, the services or practice to be implemented, and outcomes.

- Describe the target population as well as the geographic area to be served, and justify the selection of both. Include the numbers to be served and demographic information. Discuss the target population’s language, beliefs, norms and values, as well as socioeconomic factors that must be considered in delivering programs to this population.

- Describe the nature of the problem and extent of the need for the target population based on data. The statement of need should include a clearly established baseline for the project. Documentation of need may come from a variety of qualitative and quantitative sources. The quantitative data could come from local data or trend analyses, State data (e.g., from State Needs Assessments), and/or national data (e.g., from SAMHSA’s National Household Survey on Drug Abuse and Health or from National Center for Health Statistics/Centers for Disease Control reports). For data sources that are not well known, provide sufficient information on how the data were collected so reviewers can assess the reliability and validity of the data.

- Non-tribal applicants must show that identified needs are consistent with priorities of the State or county. Include, in Appendix 5, a copy of the State or County Strategic Plan, a State or county

needs assessment, or a letter from the State or county indicating that the proposed project addresses a State-or county-identified priority. Tribal applicants must provide similar documentation relating to tribal priorities.

- Identify the evidenced service/practice that you propose to implement. Describe the evidence-base for the proposed service/practice and show that it incorporates the best objective information available regarding effectiveness and acceptability. Follow the instructions provided in #1, #2 or #3 below, as appropriate:

1. *If you are proposing to implement a service/practice included in NREP (see Appendix C), one of the CMHS tool-kits on evidence-based practices (see Appendix D), the list of Effective Substance Abuse Treatment Practices (see Appendix E), or the NOFA (if applicable), simply identify the practice and state the source from which it was selected. You do not need to provide further evidence of effectiveness.*

2. *If you are providing evidence that includes scientific studies published in the peer-reviewed literature or other studies that have not been published, describe the extent to which:*

- The service/practice has been evaluated and the quality of the evaluation studies (e.g., whether they are descriptive, quasi-experimental studies, or experimental studies)

- The service/practice has demonstrated positive outcomes and for what populations the positive outcomes have been demonstrated
- The service/practice has been documented (e.g., through development of guidelines, tool kits, treatment protocols, and/or manuals) and replicated

- Fidelity measures have been developed (e.g., no measures developed, key components identified, or fidelity measures developed)

3. *If you are providing evidence based on a formal consensus process involving recognized experts in the field, describe:*

- The experts involved in developing consensus on the proposed service/practice (e.g., members of an expert panel formally convened by SAMHSA, NIH, the Institute of Medicine or other nationally recognized organization). The consensus must have been developed by a group of experts whose work is recognized and respected by others in the field. Local recognition of an individual as a respected or influential person at the community

level is not considered a “recognized expert” for this purpose.

- The nature of the consensus that has been reached and the process used to reach consensus

- The extent to which the consensus has been documented (e.g., in a consensus panel report, meeting minutes, or an accepted standard practice in the field)

- Any empirical evidence (whether formally published or not) supporting the effectiveness of the proposed services/practice

- The rationale for concluding that further empirical evidence does not exist to support the effectiveness of the proposed services/practice

- Justify the use of the proposed service/practice for the target population. Describe and justify any adaptations necessary to meet the needs of the target population, as well as evidence that such adaptations will be effective for the target population.

- Identify and justify any additional adaptations or modifications to the proposed service/practice.

- Describe the community of stakeholders in the project, and provide evidence that they have achieved a “decision to adopt” the practice. Such evidence may include contracts, memoranda of agreement, administrative memos, or other documents signed by key stakeholders that show their firm commitment to support the practice. Attach these supporting documents in Appendix 6: Evidence of Intent to Adopt.

- Provide and describe the financing plan. Include anticipated costs and sources of revenue that will maintain the practice. Attach the financing plan, signed by the funding source(s), stating their intent to fund in Appendix 6: Evidence of Intent to Adopt.

- Check the NOFA for any additional requirements.

Section B: Proposed Approach (25 Points)

- Provide a strategic plan, including key action steps, that addresses each of the following elements, as appropriate: pilot testing the best practice, evaluating the pilot test, modifying the best practice based on the pilot test, developing training materials, hiring/training staff, and securing funding to sustain services beyond the project period.

- Describe the involvement of key stakeholders in the proposed project, including roles and responsibilities of each stakeholder. Demonstrate each stakeholder’s commitment to the proposed project. Attach letters of support and similar documents showing

stakeholder commitment in Appendix 1: Letters of Support. Identify any cash or in-kind contributions that will be made to the project.

- Describe how the proposed project will address issues of age, race/ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population.
- Describe potential barriers to the successful conduct of the proposed project and how you will overcome them.
- Describe oversight or feedback mechanisms to ensure that the implemented practice is consistent with the best practice model.
- Check the NOFA for any additional requirements.

Section C: Management Plan and Staffing (25 Points)

• Provide a realistic time line for the project (chart or graph) showing key activities, milestones, and responsible staff. [Note: The time line should be part of the Project Narrative. It should not be placed in an appendix.]

• Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing culturally appropriate/competent services.

• Provide a list of staff members who will conduct the project, showing the role of each and their level of effort and qualifications. Include the Project Director and other key personnel, including evaluators and database managers.

• Describe the racial/ethnic characteristics of key staff and indicate if any are members of the target population/community. If the target population is multi-linguistic, indicate if the staffing pattern includes bilingual and bicultural individuals.

• Describe the resources available for the proposed project (e.g., facilities, equipment), and provide evidence that services will be provided in a location that is adequate, accessible, Americans with Disabilities Act (ADA) compliant, and is amenable to the target population.

• Check the NOFA for any additional requirements.

Section D: Evaluation Design and Analysis (20 Points)

• Document your ability to collect and report on the required performance measures as specified in the NOFA, including data required by SAMHSA to meet GPRA requirements. Specify and justify any additional measures you plan to use for your grant project.

• Provide a logic model (see Glossary) for the evaluation of the pilot test of the best practice as well as other implementation activities (e.g., training, securing financing).

• Provide a plan for evaluating the pilot test of the best practice and other implementation activities that includes both process and client outcome measures. Describe the recruitment plan and sample size for your project. Describe any literature or pilot testing done to verify the validity and reliability of the instruments to be used. Also discuss the appropriateness of the evaluation methods and instrument(s) in terms of the gender/age/culture of the target population. Attach instrumentation in Appendix 2: Data Collection Instruments.

• Describe how the adaptations of the best practice will be documented. Demonstrate its fidelity to the best practice model. If no fidelity scale exists for the practice, describe how you will develop one.

• Describe the process for providing regular feedback from evaluation activities to the Project Director and participants.

• Describe the database management system that will be developed.

• Check the NOFA for any additional requirements.

Note: Although the budget for the proposed project is not a review criterion, the Review Group will be asked to comment on the appropriateness of the budget after the merits of the application have been considered.

B. Review and Selection Process

SAMHSA applications are peer-reviewed according to the review criteria listed above. For those programs where the individual award is over \$100,000, applications must also be reviewed by the appropriate National Advisory Council.

C. Award Criteria

Decisions to fund a grant are based on:

- The strengths and weaknesses of the application as identified by peer reviewers and, when appropriate, approved by the appropriate National Advisory Council;
- Availability of funds; and
- Equitable distribution of awards in terms of geography (including urban, rural and remote settings) and balance among target populations and program size.

VI. Award Administration Information

A. Award Notices

After your application has been reviewed, you will receive a letter from

SAMHSA through postal mail that describes the general results of the review, including the score that your application received.

If you are approved for funding, you will receive an additional notice, the Notice of Grant Award, signed by SAMHSA's Grants Management Officer. The Notice of Grant Award is the sole obligating document that allows the grantee to receive Federal funding for work on the grant project. It is sent by postal mail and is addressed to the contact person listed on the face page of the application.

If you are not funded, you can re-apply if there is another receipt date for the program.

B. Administrative and National Policy Requirements

• You must comply with all terms and conditions of the grant award.

SAMHSA's standard terms and conditions are available on the SAMHSA Web site (<http://www.samhsa.gov>).

• Depending on the nature of the specific funding opportunity and/or the proposed project as identified during review, additional terms and conditions may be identified in the NOFA or negotiated with the grantee prior to grant award. These may include, for example:

- Actions required to be in compliance with human subjects requirements;
- Requirements relating to additional data collection and reporting;
- Requirements relating to participation in a cross-site evaluation; or
- Requirements to address problems identified in review of the application.

• You will be held accountable for the information provided in the application relating to performance targets. SAMHSA program officials will consider your progress in meeting goals and objectives, as well as your failures and strategies for overcoming them, when making an annual recommendation to continue the grant and the amount of any continuation award. Failure to meet stated goals and objectives may result in suspension or termination of the grant award, or in reduction or withholding of continuation awards.

• In an effort to improve access to funding opportunities for applicants, SAMHSA is participating in the U.S. Department of Health and Human Services "Survey on Ensuring Equal Opportunity for Applicants." This survey is included in the application kit for SAMHSA grants. Applicants are encouraged to complete the survey and

return it, using the instructions provided on the survey form.

C. Reporting Requirements

1. Progress and Financial Reports

- Grantees must provide annual and final progress reports. The final progress report must summarize information from the annual reports, describe the accomplishments of the project, and describe next steps for implementing plans developed during the grant period.

- Grantees must provide annual and final financial status reports. These reports may be included as separate sections of annual and final progress reports or can be separate documents. Because SAMHSA is extremely interested in ensuring that its best practices efforts can be sustained, your financial reports must explain plans to ensure the sustainability (see Glossary) of efforts initiated under this grant. Initial plans for sustainability should be described in year 1 of the grant. In each subsequent year, you should describe the status of the project, successes achieved and obstacles encountered in that year.

- SAMHSA will provide guidelines and requirements for these reports to grantees at the time of award and at the initial grantee orientation meeting after award. SAMHSA staff will use the information contained in the reports to determine the grantee's progress toward meeting its goals.

2. Government Performance and Results Act

The Government Performance and Results Act (GPRA) mandates accountability and performance-based management by Federal agencies. To meet the GPRA requirements, SAMHSA must collect performance data (*i.e.*, "GPRA data") from grantees. These requirements will be specified in the NOFA for each funding opportunity.

3. Publications

If you are funded under this grant program, you are required to notify the Government Project Officer (GPO) and SAMHSA's Publications Clearance Officer (301-443-8596) of any materials based on the SAMHSA-funded project that are accepted for publication.

In addition, SAMHSA requests that grantees:

- Provide the GPO and SAMHSA Publications Clearance Officer with advance copies of publications.
- Include acknowledgment of the SAMHSA grant program as the source of funding for the project.
- Include a disclaimer stating that the views and opinions contained in the

publication do not necessarily reflect those of SAMHSA or the U.S. Department of Health and Human Services, and should not be construed as such.

SAMHSA reserves the right to issue a press release about any publication deemed by SAMHSA to contain information of program or policy significance to the substance abuse treatment/substance abuse prevention/mental health services community.

VII. Agency Contacts

The NOFAs provide contact information for questions about program issues.

For questions on grants management issues, contact: Stephen Hudak, Office of Program Services, Division of Grants Management, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Rockwall II 6th Floor, Rockville, MD 20857, (301) 443-9666, shudak@samhsa.gov.

VIII. Other Information

A. SAMHSA Confidentiality and Participant Protection Requirements and Protection of Human Subjects Regulations

You must describe your procedures relating to Confidentiality, Participant Protection and the Protection of Human Subjects Regulations in Section I of your application, using the guidelines provided below. Problems with confidentiality, participant protection, and protection of human subjects identified during peer review of your application may result in the delay of funding.

Confidentiality and Participant Protection

All applicants must address each of the following elements relating to confidentiality and participant protection. You must describe how you will address these requirements.

1. Protect Clients and Staff From Potential Risks

- Identify and describe any foreseeable physical, medical, psychological, social, and legal risks or potential adverse effects as a result of the project itself or any data collection activity.

- Describe the procedures you will follow to minimize or protect participants against potential risks, including risks to confidentiality.

- Identify plans to provide guidance and assistance in the event there are adverse effects to participants.

- Where appropriate, describe alternative treatments and procedures that may be beneficial to the

participants. If you choose not to use these other beneficial treatments, provide the reasons for not using them.

2. Fair Selection of Participants

- Describe the target population(s) for the proposed project. Include age, gender, and racial/ethnic background and note if the population includes homeless youth, foster children, children of substance abusers, pregnant women, or other target groups.

- Explain the reasons for including groups of pregnant women, children, people with mental disabilities, people in institutions, prisoners, and individuals who are likely to be particularly vulnerable to HIV/AIDS.

- Explain the reasons for including or excluding participants.

- Explain how you will recruit and select participants. Identify who will select participants.

3. Absence of Coercion

- Explain if participation in the project is voluntary or required. Identify possible reasons why participation is required, for example, court orders requiring people to participate in a program.

- If you plan to compensate participants, state how participants will be awarded incentives (*e.g.*, money, gifts, etc.).

- State how volunteer participants will be told that they may receive services intervention even if they do not participate in or complete the data collection component of the project.

4. Data Collection

- Identify from whom you will collect data (*e.g.*, from participants themselves, family members, teachers, others). Describe the data collection procedures and specify the sources for obtaining data (*e.g.*, school records, interviews, psychological assessments, questionnaires, observation, or other sources). Where data are to be collected through observational techniques, questionnaires, interviews, or other direct means, describe the data collection setting.

- Identify what type of specimens (*e.g.*, urine, blood) will be used, if any. State if the material will be used just for evaluation or if other use(s) will be made. Also, if needed, describe how the material will be monitored to ensure the safety of participants.

- Provide in Appendix 2, "Data Collection Instruments/Interview Protocols," copies of all available data collection instruments and interview protocols that you plan to use.

5. Privacy and Confidentiality

• Explain how you will ensure privacy and confidentiality. Include who will collect data and how it will be collected.

- Describe:
 - How you will use data collection instruments.
 - Where data will be stored.
 - Who will or will not have access to information.
 - How the identity of participants will be kept private, for example, through the use of a coding system on data records, limiting access to records, or storing identifiers separately from data.

Note: If applicable, grantees must agree to maintain the confidentiality of alcohol and drug abuse client records according to the provisions of Title 42 of the Code of Federal Regulations, Part II.

6. Adequate Consent Procedures

- List what information will be given to people who participate in the project. Include the type and purpose of their participation. Identify the data that will be collected, how the data will be used and how you will keep the data private.
 - State:
 - Whether or not their participation is voluntary.
 - Their right to leave the project at any time without problems.
 - Possible risks from participation in the project.
 - Plans to protect clients from these risks.
 - Explain how you will get consent for youth, the elderly, people with limited reading skills, and people who do not use English as their first language.

Note: If the project poses potential physical, medical, psychological, legal, social or other risks, you must obtain written informed consent.

- Indicate if you will obtain informed consent from participants or assent from minors along with consent from their parents or legal guardians. Describe how the consent will be documented. For example: Will you read the consent forms? Will you ask prospective participants questions to be sure they understand the forms? Will you give them copies of what they sign?
 - Include, as appropriate, sample consent forms that provide for: (1) Informed consent for participation in service intervention; (2) informed consent for participation in the data collection component of the project; and (3) informed consent for the exchange (releasing or requesting) of confidential information. The sample forms must be

included in Appendix 3, "Sample Consent Forms," of your application. If needed, give English translations.

Note: Never imply that the participant waives or appears to waive any legal rights, may not end involvement with the project, or releases your project or its agents from liability for negligence.

- Describe if separate consents will be obtained for different stages or parts of the project. For example, will they be needed for both participant protection in treatment intervention and for the collection and use of data?

- Additionally, if other consents (*e.g.*, consents to release information to others or gather information from others) will be used in your project, provide a description of the consents. Will individuals who do not consent to having individually identifiable data collected for evaluation purposes be allowed to participate in the project?

7. Risk/Benefit Discussion

Discuss why the risks are reasonable compared to expected benefits and importance of the knowledge from the project.

Protection of Human Subjects Regulations

All applicants proposing a pilot test of the best practice as part of a Phase II project must comply with the Protection of Human Subjects Regulations (45 CFR part 46).

Even if you are not proposing a Phase II pilot test of the best practice, the Protection of Human Subjects Regulations could apply depending on the evaluation you propose.

If you are a Phase II applicant proposing a pilot test or your project otherwise falls under the Protection of Human Subjects Regulations, you must describe the process for obtaining Institutional Review Board (IRB) approval in your application. While IRB approval is not required at the time of grant award, you will be required, as a condition of award, to provide the documentation that an Assurance of Compliance is on file with the Office for Human Research Protections (OHRP) and the IRB approval has been received before enrolling clients in the proposed project.

Additional information about Protection of Human Subjects Regulations can be obtained on the web at <http://ohrp.osophs.dhhs.gov>. You may also contact OHRP by e-mail (ohrp@osophs.dhhs.gov) or by phone (301-496-7005).

B. Intergovernmental Review (E.O. 12372) Instructions

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and can be downloaded from the Office of Management and Budget (OMB) Web site at www.whitehouse.gov/omb/grants/spoc.html.

- Check the list to determine whether your State participates in this program. You do not need to do this if you are a federally recognized Indian tribal government.

- If your State participates, contact your SPOC as early as possible to alert him/her to the prospective application(s) and to receive any necessary instructions on the State's review process.

- For proposed projects serving more than one State, you are advised to contact the SPOC of each affiliated State.

- The SPOC should send any State review process recommendations to the following address within 60 days of the application deadline: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17-89, Rockville, Maryland 20857, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from the NOFA].

C. Public Health System Impact Statement (PHSIS)

The Public Health System Impact Statement or PHSIS (Approved by OMB under control no. 0920-0428; see burden statement below) is intended to keep State and local health officials informed of proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions. State and local governments and Indian tribal government applicants are not subject to the following Public Health System Reporting Requirements.

Community-based, non-governmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected no later than the pertinent receipt date for applications. This PHSIS consists of the following information:

- A copy of the face page of the application (SF 424); and
- A summary of the project, no longer than one page in length, that provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with appropriate State or local health agencies.

For SAMHSA grants, the appropriate State agencies are the Single State Agencies (SSAs) for substance abuse and mental health. A listing of the SSAs can be found on SAMHSA's Web site at <http://www.samhsa.gov>. If the proposed project falls within the jurisdiction of more than one State, you should notify all representative SSAs.

Applicants who are not the SSA must include a copy of a letter transmitting the PHSIS to the SSA in Appendix 4, "Letter to the SSA." The letter must notify the State that, if it wishes to comment on the proposal, its comments should be sent not later than 60 days after the application deadline to: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17-89, Rockville, Maryland, 20857, ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition:

- Applicants may request that the SSA send them a copy of any State comments.
- The applicant must notify the SSA within 30 days of receipt of an award.

[Public reporting burden for the Public Health System Reporting Requirement is estimated to average 10 minutes per response, including the time for copying the face page of SF 424 and the abstract and preparing the letter for mailing. 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 number for this project is 0920-0428. Send comments regarding this burden to CDC Clearance Officer, 1600 Clifton Road, MS D-24, Atlanta, GA 30333, ATTN: PRA (0920-28).]

Appendix A—Checklist for Application Formatting Requirements

Your application must adhere to these formatting requirements. Failure to do so will result in your application being screened out and returned to you without review. In addition to these formatting requirements, there may be programmatic requirements specified in the NOFA. Please check the NOFA before preparing your application.

- Use the PHS 5161-1 application.

- The 10 application components required for SAMHSA applications must be included (*i.e.*, Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist.)

- Text must be legible.
- Paper must be white and 8.5' by 11.0" in size.
- Pages must be single-spaced with one column per page.
- Margins must be at least one inch.
- Type size in the Project Narrative cannot exceed an average of 15 characters per inch when measured with a ruler. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)
- Photo reduction or condensation of type cannot be closer than 15 characters per inch or 6 lines per inch.
- Pages cannot have printing on both sides.

- Page limitations specified for the Project Narrative [30 pages total for Sections A–E (Phase I) and 30 pages total for Sections A–D (Phase II)] and Appendices 1, 3, 4 and 6 (30 pages) cannot be exceeded.

- Information provided must be sufficient for review.

- Applications must be received by the application deadline. Applications received after this date must have a proof of mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing. Applications not received by the application deadline or not postmarked by a week prior to the application deadline will not be reviewed.

- Applications that do not comply with the following program requirements and any additional program requirements specified in the NOFA, or are otherwise unresponsive to PA guidelines, will be screened out:

- Provisions relating to confidentiality, participant protection and the protection of human subjects specified in Section VIII–A of this document;
- Budgetary limitations as specified in Sections I, II and IV–E of this document;
- Documentation of nonprofit status as required in the PHS 5161-1;

To facilitate review of your application, follow these additional guidelines. Failure to follow these guidelines will not result in your application being screened out.

However, following these guidelines will help reviewers to consider your application.

- Please use black ink and number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

- Send the original application and two copies to the mailing address in the PA. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use any material that cannot be copied using automatic copying machines. Odd-sized and

oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD-ROM.

Appendix B—Glossary

Best Practice: Best practices are practices that incorporate the best objective information currently available regarding effectiveness and acceptability.

Catchment Area: A catchment area is the geographic area from which the target population to be served by a program will be drawn.

Cooperative Agreement: A cooperative agreement is a form of Federal grant. Cooperative agreements are distinguished from other grants in that, under a cooperative agreement, substantial involvement is anticipated between the awarding office and the recipient during performance of the funded activity. This involvement may include collaboration, participation, or intervention in the activity. HHS awarding offices use grants or cooperative agreements (rather than contracts) when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

Cost-Sharing or Matching: Cost-sharing refers to the value of allowable non-Federal contributions toward the allowable costs of a Federal grant project or program. Such contributions may be cash or in-kind contributions. For SAMHSA grants, cost-sharing or matching is not required, and applications will not be screened out on the basis of cost-sharing. However, applicants often include cash or in-kind contributions in their proposals as evidence of commitment to the proposed project. This is allowed, and this information may be considered by reviewers in evaluating the quality of the application.

Fidelity: Fidelity is the degree to which a specific implementation of a program or practice resembles, adheres to, or is faithful to the evidence-based model on which it is based. Fidelity is formally assessed using rating scales of the major elements of the evidence-based model. A toolkit on how to develop and use fidelity instruments is available from the SAMHSA-funded Evaluation Technical Assistance Center at <http://tecathsri.org> or by calling (617) 876-0426.

Grant: A grant is the funding mechanism used by the Federal Government when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

In-Kind Contribution: In-kind contributions toward a grant project are non-cash contributions (*e.g.*, facilities, space, services) that are derived from non-Federal sources, such as State or sub-State non-Federal revenues, foundation grants, or contributions from other non-Federal public or private entities.

Logic Model: A logic model is a diagrammatic representation of a theoretical framework. A logic model describes the logical linkages among program resources, conditions, strategies, short-term outcomes, and long-term impact. More information on how to develop logics models and examples can be found through the resources listed in Appendix F.

Practice: A practice is any activity, or collective set of activities, intended to improve outcomes for people with or at risk for substance abuse and/or mental illness. Such activities may include direct service provision, or they may be supportive activities, such as efforts to improve access to and retention in services, organizational efficiency or effectiveness, community readiness, collaboration among stakeholder groups, education, awareness, training, or any other activity that is designed to improve outcomes for people with or at risk for substance abuse or mental illness.

Practice Support System: This term refers to contextual factors that affect practice delivery and effectiveness in the pre-adoption phase, delivery phase, and post-delivery phase, such as (a) community collaboration and consensus building, (b) training and overall readiness of those implementing the practice, and (c) sufficient ongoing supervision for those implementing the practice.

Stakeholder: A stakeholder is an individual, organization, constituent group, or other entity that has an interest in and will be affected by a proposed grant project.

Sustainability: Sustainability is the ability to continue a program or practice after SAMHSA grant funding has ended.

Target Population: The target population is the specific population of people whom a particular program or practice is designed to serve or reach.

Wraparound Service: Wraparound services are non-clinical supportive services—such as child care, vocational, educational, and transportation services—that are designed to improve the individual's access to and retention in the proposed project. 4

Appendix C—National Registry of Effective Programs

To help SAMHSA's constituents learn more about science-based programs, SAMHSA's Center for Substance Abuse Prevention (CSAP) created a National Registry of Effective Programs (NREP) to review and identify effective programs. NREP seeks candidates from the practice community and the scientific literature. While the initial focus of NREP was substance abuse prevention programming, NREP has expanded its scope and now includes prevention and treatment of substance abuse and of co-occurring substance abuse and mental disorders, and psychopharmacological programs and workplace programs.

NREP includes three categories of programs: Effective Programs, Promising Programs, and Model Programs. Programs defined as Effective have the option of becoming Model Programs if their developers choose to take part in SAMHSA dissemination efforts. The conditions for

making that choice, together with definitions of the three major criteria, are as follows.

Promising Programs have been implemented and evaluated sufficiently and are scientifically defensible. They have positive outcomes in preventing substance abuse and related behaviors. However, they have not yet been shown to have sufficient rigor and/or consistently positive outcomes required for Effective Program status. Nonetheless, Promising Programs are eligible to be elevated to Effective/Model status after review of additional documentation regarding program effectiveness. Originated from a range of settings and spanning target populations, Promising Programs can guide prevention, treatment, and rehabilitation.

Effective Programs are well-implemented, well-evaluated programs that produce consistently positive pattern of results (across domains and/or replications). Developers of Effective Programs have yet themselves.

Model Programs are also well-implemented, well-evaluated programs, meaning they have been reviewed by NREP according to rigorous standards of research. Their developers have agreed with SAMHSA to provide materials, training, and technical assistance for nationwide implementation. That helps ensure the program is carefully implemented and likely to succeed.

Programs that have met the NREP standards for each category can be identified by accessing the NREP Model Programs Web site at www.modelprograms.samhsa.gov.

Appendix D—Center for Mental Health Services Evidence-Based Practice Toolkits

SAMHSA's Center for Mental Health Services and the Robert Wood Johnson Foundation initiated the Evidence-Based Practices Project to: (1) help more consumers and families find effective services, (2) help providers of mental health services develop effective services, and (3) help administrators support and maintain these services. The project is now also funded and endorsed by numerous national, State, local, private and public organizations, including the Johnson & Johnson Charitable Trust, MacArthur Foundation, and the West Family Foundation.

The project has been developed through the cooperation of many Federal and State mental health organizations, advocacy groups, mental health providers, researchers, consumers and family members. A Web site (www.mentalhealthpractices.org) was created as part of Phase I of the project, which included the identification of the first cluster of evidence-based practices and the design of implementation resource kits to help people understand and use these practices successfully.

Basic information about the first six evidence-based practices is available on the Web site. The six practices are:

1. Illness Management and Recovery
2. Family Psychoeducation
3. Medication Management Approaches in Psychiatry
4. Assertive Community Treatment
5. Supported Employment
6. Integrated Dual Disorders Treatment

Each of the resource kits contains information and materials written by and for the following groups:

- Consumers
- Families and Other Supporters
- Practitioners and Clinical Supervisors
- Mental Health Program Leaders
- Public Mental Health Authorities

Material on the Web site can be printed or downloaded with Acrobat Reader, and references are provided where additional information can be obtained.

Once published, the full kits will be available from National Mental Health Information Center at www.health.org or 1-800-789-CMHS (2647).

Appendix E—Effective Substance Abuse Treatment Practices

To assist potential applicants, SAMHSA's Center for Substance Abuse Treatment (CSAT) has identified the following listing of current publications on effective treatment practices for use by treatment professionals in treating individuals with substance abuse disorders. These publications are available from the National Clearinghouse for Alcohol and Drug Information (NCADI); Tele: 1-800-729-6686 or <http://www.health.org> and <http://www.samhsa.gov/centers/csat2002/publications.html>.

CSAT Treatment Improvement Protocols (TIPs) are consensus-based guidelines developed by clinical, research, and administrative experts in the field.

- *Integrating Substance Abuse Treatment and Vocational Services*. TIP 38 (2000) NCADI # BKD381
- *Substance Abuse Treatment for Persons with Child Abuse and Neglect Issues*. TIP 36 (2000) NCADI # BKD343
- *Substance Abuse Treatment for Persons with HIV/AIDS*. TIP 37 (2000) NCADI # BKD359
- *Brief Interventions and Brief Therapies for Substance Abuse*. TIP 34 (1999) NCADI # BKD341
- *Enhancing Motivation for Change in Substance Abuse Treatment*. TIP 35 (1999) NCADI # BKD342
- *Screening and Assessing Adolescents for Substance Use Disorders*. TIP 31 (1999) NCADI # BKD306
- *Treatment for Stimulant Use Disorders*. TIP 33 (1999) NCADI # BKD289
- *Treatment of Adolescents with Substance Use Disorders*. TIP 32 (1999) NCADI # BKD307
- *Comprehensive Case Management for Substance Abuse Treatment*. TIP 27 (1998) NCADI # BKD251
- *Continuity of Offender Treatment for Substance Use Disorders From Institution to Community*. TIP 30 (1998) NCADI # BKD304
- *Naltrexone and Alcoholism Treatment*. TIP 28 (1998) NCADI # BKD268
- *Substance Abuse Among Older Adults*. TIP 26 (1998) NCADI # BKD250
- *Substance Use Disorder Treatment for People With Physical and Cognitive Disabilities*. TIP 29 (1998) NCADI # BKD288
- *A Guide to Substance Abuse Services for Primary Care Clinicians*. TIP 24 (1997) NCADI # BKD234

- *Substance Abuse Treatment and Domestic Violence*. TIP 25 (1997) NCADI # BKD239
- *Treatment Drug Courts: Integrating Substance Abuse Treatment With Legal Case Processing*. TIP 23 (1996) NCADI # BKD205
- *Alcohol and Other Drug Screening of Hospitalized Trauma Patients*. TIP 16 (1995) NCADI # BKD164
- *Combining Alcohol and Other Drug Abuse Treatment With Diversion for Juveniles in the Justice System*. TIP 21 (1995) NCADI # BKD169
- *Detoxification From Alcohol and Other Drugs*. TIP 19 (1995) NCADI # BKD172
- *LAAM in the Treatment of Opiate Addiction*. TIP 22 (1995) NCADI # BKD170
- *Matching Treatment to Patient Needs in Opioid Substitution Therapy*. TIP 20 (1995) NCADI # BKD168
- *Planning for Alcohol and Other Drug Abuse Treatment for Adults in the Criminal Justice System*. TIP 17 (1995) NCADI # BKD165
- *Assessment and Treatment of Cocaine-Abusing Methadone-Maintained Patients*. TIP 10 (1994) NCADI # BKD157
- *Assessment and Treatment of Patients With Coexisting Mental Illness and Alcohol and Other Drug Abuse*. TIP 9 (1994) NCADI # BKD134
- *Intensive Outpatient Treatment for Alcohol and Other Drug Abuse*. TIP 8 (1994) NCADI # BKD139

Other Effective Practice Publications:

CSAT Publications—

- *Anger Management for Substance Abuse and Mental Health Clients: A Cognitive Behavioral Therapy Manual* (2002) NCADI # BKD444
- *Anger Management for Substance Abuse and Mental Health Clients: Participant Workbook* (2002) NCADI # BKD445
- *Multidimensional Family Therapy for Adolescent Cannabis Users*. CYT Cannabis Youth Treatment Series Vol. 5 (2002) NCADI # BKD388
- *Navigating the Pathways: Lessons and Promising Practices in Linking Alcohol and Drug Services with Child Welfare*. TAP 27 (2002) NCADI # BKD436
- *The Motivational Enhancement Therapy and Cognitive Behavioral Therapy Supplement: 7 Sessions of Cognitive Behavioral Therapy for Adolescent Cannabis Users*. CYT Cannabis Youth Treatment Series Vol. 2 (2002) NCADI # BKD385
- *Family Support Network for Adolescent Cannabis Users*. CYT Cannabis Youth Treatment Series Vol. 3 (2001) NCADI # BKD386
- *Identifying Substance Abuse Among TANF-Eligible Families*. TAP 26 (2001) NCADI # BKD410
- *Motivational Enhancement Therapy and Cognitive Behavioral Therapy for Adolescent Cannabis Users: 5 Sessions*. CYT Cannabis Youth Treatment Series Vol. 1 (2001) NCADI # BKD384
- *The Adolescent Community Reinforcement Approach for Adolescent Cannabis Users*. CYT Cannabis Youth Treatment Series Vol. 4 (2001) NCADI # BKD387

- *Substance Abuse Treatment for Women Offenders: Guide to Promising Practices*. TAP 23 (1999) NCADI # BKD310
- *Addiction Counseling Competencies: The Knowledge, Skills, and Attitudes of Professional Practice*. TAP 21 (1998) NCADI # BKD246
- *Bringing Excellence to Substance Abuse Services in Rural and Frontier America*. TAP 20 (1997) NCADI # BKD220
- *Counselor's Manual for Relapse Prevention with Chemically Dependent Criminal Offenders*. TAP 19 (1996) NCADI # BKD723
- *Draft Buprenorphine Curriculum for Physicians (Note: the Curriculum is in DRAFT form and is currently being updated)* www.buprenorphine.samhsa.gov
- *CSAT Guidelines for the Accreditation of Opioid Treatment Programs* www.samhsa.gov/centers/csat/content/dpt/accreditation.htm
- *Model Policy Guidelines for Opioid Addiction Treatment in the Medical Office* www.samhsa.gov/centers/csat/content/dpt/model_policy.htm

NIDA Manuals—Available through NCADI

- *Brief Strategic Family Therapy*. Manual 5 (2003) NCADI # BKD481
- *Drug Counseling for Cocaine Addiction: The Collaborative Cocaine Treatment Study Model*. Manual 4 (2002) NCADI # BKD465
- *The NIDA Community-Based Outreach Model: A Manual to Reduce Risk HIV and Other Blood-Borne Infections in Drug Users*. (2000) NCADI # BKD366
- *An Individual Counseling Approach to Treat Cocaine Addiction: The Collaborative Cocaine Treatment Study Model*. Manual 3 (1999) NCADI # BKD337
- *Cognitive-Behavioral Approach: Treating Cocaine Addiction*. Manual 1 (1998) NCADI # BKD254
- *Community Reinforcement Plus Vouchers Approach: Treating Cocaine Addiction*. Manual 2 (1998) NCADI # BKD255

NIAAA Publications—*These publications are available in PDF format or can be ordered on-line at www.niaaa.nih.gov/publications/guides.htm. An order form for the Project MATCH series is available on-line at www.niaaa.nih.gov/publications/match.htm. All publications listed can be ordered through the NIAAA Publications Distribution Center, P.O. Box 10686, Rockville, MD 20849-0686.

- **Alcohol Problems in Intimate Relationships: Identification and Intervention*. A Guide for Marriage and Family Therapists (2003) NIH Pub. No. 03-5284
- **Helping Patients with Alcohol Problems: A Health Practitioner's Guide*. (2003) NIH Pub. No. 03-3769
- *Cognitive-Behavioral Coping Skills Therapy Manual*. Project MATCH Series, Vol. 3 (1995) NIH Pub. No. 94-3724
- *Motivational Enhancement Therapy Manual*. Project MATCH Series, Vol. 2 (1994) NIH Pub. No. 94-3723

Appendix F—Logic Model Resources

- Chen, W.W., Cato, B.M., & Rainford, N. (1998-9). Using a logic model to plan and evaluate a community intervention program: A case study. *International Quarterly of Community Health Education*, 18(4), 449-458.
- Edwards, E.D., Seaman, J.R., Drews, J., & Edwards, M.E. (1995). A community approach for Native American drug and alcohol prevention programs: A logic model framework. *Alcoholism Treatment Quarterly*, 13(2), 43-62.
- Hernandez, M. & Hodges, S. (2003). *Crafting Logic Models for Systems of Care: Ideas into Action*. [Making children's mental health services successful series, volume 1]. Tampa, FL: University of South Florida, The Louis de la Parte Florida Mental Health Institute, Department of Child & Family Studies. <http://cfs.fmhi.usf.edu> or phone (813) 974-4651.
- Hernandez, M. & Hodges, S. (2001). Theory-based accountability. In M. Hernandez & S. Hodges (Eds.), *Developing Outcome Strategies in Children's Mental Health*, pp. 21-40. Baltimore: Brookes.
- Julian, D.A. (1997). Utilization of the logic model as a system level planning and evaluation device. *Evaluation and Planning*, 20(3), 251-257.
- Julian, D.A., Jones, A., & Deyo, D. (1995). Open systems evaluation and the logic model: Program planning and evaluation tools. *Evaluation and Program Planning*, 18(4), 333-341.
- Patton, M.Q. (1997). *Utilization-Focused Evaluation* (3rd Ed.), pp. 19, 22, 241. Thousand Oaks, CA: Sage.
- Wholey, J.S., Hatry, H.P., Newcome, K.E. (Eds.) (1994). *Handbook of Practical Program Evaluation*. San Francisco, CA: Jossey-Bass Inc.
- Dated: November 13, 2003.

Daryl Kade,

Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.

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BILLING CODE 4162-20-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Substance Abuse and Mental Health Services Administration****Notice of Final Standard Service-to-Science Grants Announcement**

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.
ACTION: Notice of final Service-to-Science Grants announcement.

SUMMARY: On August 21, 2003, the Substance Abuse and Mental Health Services Administration (SAMHSA) announced plans to change its approach to announcing and soliciting applications for its discretionary grant programs in Fiscal Year (FY) 2004.

These changes involved the publication of four standard grant announcements that would provide the basic program design and application instructions for four types of grants—Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. The four announcements were made available for public review and comment for 60 days. The comments received and changes made to the standard grant announcements are described in a separate **Federal Register** notice. This notice provides the final text for SAMHSA’s standard Service-to-Science Grants announcement.

Authority: Sections 509, 516, and 520A of the Public Health Service Act.

DATES: Use of the standard Service-to-Science Grants announcement will be effective November 21, 2003. The standard Service-to-Science Grants announcement must be used in conjunction with *separate* Notices of Funding Availability (NOFAs) that will provide application due dates and other key dates for specific SAMHSA grant funding opportunities.

ADDRESSES: Questions about SAMHSA’s standard Service-to-Science Grants announcement may be directed to Cathy Friedman, M.A., Office of Policy, Planning and Budget, 5600 Fishers Lane, Room 12C–26, Rockville, Maryland, 20857. Fax: (301–594–6159) E-mail: cfriedma@samhsa.gov.

FOR FURTHER INFORMATION CONTACT: Cathy Friedman, M.A., Office of Policy, Planning and Budget, 5600 Fishers Lane, Room 12C–26, Rockville, Maryland, 20857. Fax: (301–594–6159) E-mail: cfriedma@samhsa.gov. Phone: (301) 443–1910.

SUPPLEMENTARY INFORMATION: Starting in FY 2004, SAMHSA is changing its approach to announcing and soliciting applications for its discretionary grants. SAMHSA will publish four standard grant announcements that will describe the general program design and provide application instructions for four types of grants—Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. The text for the final standard Service-to-Science Grants announcement is provided below.

The standard Service-to-Science Grants announcement will be posted on SAMHSA’s Web page (www.samhsa.gov) and will be available from SAMHSA’s clearinghouses on an ongoing basis. The standard announcements will be used in conjunction with brief Notices of Funding Availability (NOFAs) that will announce the availability of funds for specific grant funding opportunities within each of the standard grant programs (*e.g.*, Homeless Treatment grants, Statewide Family Network grants, HIV/AIDS and Substance Abuse Prevention Planning Grants, etc.).

Service-to-Science Grants—STS 04 (Initial Announcement)

Catalogue of Federal Domestic Assistance (CFDA) No.: 93.243 (unless otherwise specified in a NOFA in the **Federal Register** and on www.grants.gov).

Authority: Sections 509, 516 and/or 520A of the Public Health Service Act, as amended and subject to the availability of funds (unless otherwise specified in a NOFA in the **Federal Register** and on www.grants.gov).

KEY DATES

Application Deadline	This Program Announcement provides instructions and guidelines for multiple funding opportunities. Application deadlines for specific funding opportunities will be published in Notices of Funding Availability (NOFAs) in the Federal Register and on www.grants.gov .
Intergovernmental Review (E.O. 12372)	Letters from State Single Point of Contact (SPOC) are due 60 days after application deadline
Public Health System Impact Statement (PHSIS)/Single State Agency Coordination.	Applicants must send the PHSIS to appropriate State and local health agencies by application deadline. Comments from Single State Agency are due 60 days after application deadline.

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I. Funding Opportunity Description

A. Introduction

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces its intent to solicit applications for Service-to-Science grants. These grants will document and evaluate innovative practices that address critical substance abuse and mental health service gaps but have not yet been formally evaluated. Applicants who seek to stabilize, document, and evaluate promising practices for mental health

and/or substance abuse treatment, prevention, and support services should apply for awards under this announcement.

SAMHSA also funds grants under three other standard grant announcements:

- *Services Grants* provide funding to implement substance abuse and mental health services.
- *Infrastructure Grants* support identification and implementation of systems changes but are not designed to fund services.
- *Best Practices Planning and Implementation Grants* help communities and providers identify practices to effectively meet local needs, develop strategic plans for implementing/adapting those practices and pilot-test practices prior to full-scale implementation.

This announcement describes the general program design and provides application instructions for all SAMHSA Service-to-Science Grants.

The availability of funds for specific Service-to-Science Grants will be announced in supplementary Notices of Funding Availability (NOFAs) in the **Federal Register** and at www.grants.gov—the Federal grant announcement Web page.

Typically, funding for Service-to-Science Grants will be targeted to specific populations and/or issue areas, which will be specified in the NOFAs. The NOFAs will also:

- Specify total funding available for the first year of the grants and the expected size and number of awards;
- Provide the application deadline;
- Note any specific program requirements for each funding opportunity; and
- Include any limitations or exceptions to the general provisions in this announcement (e.g., eligibility, award size, allowable activities).

It is, therefore, critical that you consult the NOFA as well as this announcement in developing your grant application.

B. Expectations

While there is a well-established evidence base for many behavioral health practices, critical service gaps exist for which there is no formal evidence base. Stakeholders have developed many innovative practices to fill these gaps, but they may lack the expertise and/or resources to formally document and evaluate their practices. Consequently, it is not clear whether these innovative practices are effective, and they are not disseminated widely. SAMHSA seeks to encourage continued development of evidence-based practices to fill service gaps by documenting and evaluating promising stakeholder-initiated practices. This program will help organizations that have identified promising new practices to evaluate and package those innovations for review and inclusion in the National Registry of Effective Programs (NREP) as well as for further research.

1. Program Design

SAMHSA will fund Service-to-Science grants in two phases. You may apply for Phase I and II combined or for Phase II alone. Applications for Phase I alone will not be accepted.

Phase I provides support for up to 2 years to stabilize and document an existing practice that fills an identified gap. During Phase I, you may:

- Further develop or refine the promising practice;
- Develop training and practice manuals;

- Train persons who are implementing the practice;
- More systematically implement the practice;
- Develop measurement instruments; and
- Ensure that the intended target population (see Glossary) is being reached by the practice.

The desired endpoint of Phase I is readiness to conduct a high-quality, systematic evaluation.

Phase II provides support for 1–3 years to evaluate the success of the practice. The purpose of Phase II is to conduct a high-quality, systematic evaluation to document short-term outcomes and demonstrate that the practice is worthy of an experimental study. On the basis of the evaluation, you may need to further refine the practice and further refine the practice manual. The evaluation may use a pre-post approach, an open trial model, other quasi or non-experimental model, or an experimental model.

The desired endpoint for Phase II is readiness to submit the practice for inclusion in SAMHSA's NREP and/or to submit applications to various research institutions for additional research.

SAMHSA's Service-to-Science grants will provide support to stabilize practices so that they may be documented and evaluated. However, these grants are not intended to support development of entirely new practices. The practices must be in place and operational for at least one year prior to application, and you must have at least anecdotal evidence that the practice is effective.

You may apply for a combination of Phases I and II in a single grant application if you have identified a priority gap for which a fully developed and documented practice currently does not exist.

- During Phase I, you will further develop and document the practice.
- During Phase II, you will evaluate the practice.

At the conclusion of Phase I, SAMHSA staff will review your progress to determine whether Phase II is warranted. This decision will be based on review of the documentation required by the end of Phase I, as described under the Performance Expectations section below. You must provide compelling evidence that the practice has been sufficiently developed and documented to be evaluated and has produced positive results.

For practices that are already fully developed, implemented, stabilized, and documented but that have not yet been formally evaluated, you may apply

for Phase II only. Applications for Phase I alone will not be accepted.

Depending on your readiness, you may receive a combination of Phases I and II for a period of up to, but not more than, 5 years. You may apply for a shorter grant period than the maximum, and SAMHSA may award a grant for a shorter time period than you request.

2. Establishing Need

Service-to-Science grants are intended to develop solutions to widespread needs. This grant program is not intended to address a local community's need for funds to solve a local problem. Therefore, you must demonstrate that the broader substance abuse and/or mental health field—not just your local community—has a need for the practice. You must also show that no well-documented solution to the problem exists, and that your local community can support an evaluation that will increase the knowledge base of the field.

3. Allowable Activities

Phase I: Practice Development and Documentation. In Phase I, you will further develop and document the practice. The types of activities that may be needed and that are allowable include, but are not limited to, the following:

- Strategic planning.
- Convening stakeholder meetings.
- Training of practitioners.
- Efforts to overcome policy and funding barriers to practice stability.
- Development of an action plan for systematizing and stabilizing the practice.
- Development of a practice support system.
- Developing needed partnerships for ongoing implementation.
- Logic model development.
- Documentation of core elements of the practice.
- Practice manual development.
- Measurement instrument development/selection.
- Participant recruitment.
- Development of quality assurance and accountability mechanisms.
- Implementation and refinement of the practice.
- Implementation process evaluation.
- Management information system development.
- Collection of pilot outcome data.

Phase II: Practice Evaluation. During Phase II, SAMHSA will (if necessary) continue to fund implementation of the practice being evaluated. Other types of allowable activities include, but are not limited to, the following:

- Convening relevant stakeholder meetings.

- Alignment of management information systems with data collection needs.
- Training evaluators.
- Measurement instrument development/selection.
- Data collection.
- Database management.
- Data and cost analysis.
- Dissemination of results.
- Refinement of logic model and practice manual based on evaluation results.

4. Performance Expectations

All grantees will be expected to meet the following performance requirements by the end of their grant projects.

Phase I. By the end of Phase I, documentation for the practice must include:

- A logic model depicting the principles and concepts underlying the practice.
- A manual describing the practice in detail that would allow others to replicate the practice.
- Documentation of how critical stakeholders were included in the development of the practice.
- A detailed description of the population that the practice is designed to serve, and demographic characteristics of the people served by the practice over the past year.
- Documentation that the number of people being served by the practice has been stabilized.
- Documentation of the number and percentage of staff trained in the practice, and a mechanism for ongoing training for any new staff.
- A process evaluation demonstrating that the practice is in full operation and that a routine service delivery process is in place.

- Pilot outcome results. (*Note:* Collection of these data need not include an extensive set of outcomes systematically collected on all participants, but quantitative project data should provide some indication that key outcomes are being achieved.)

Phase II. By the end of Phase II, the evaluation of the practice must have demonstrated that:

- Key outcome measures have been clearly identified and defined.
- Participant data collection systems are in place that include:
 - Demographic characteristics.
 - Practice outcomes.
 - Service utilization.
 - Service delivery costs.
 - Satisfaction with services.
 - Demographic characteristics of participants, as well as the types of services that participants have received, are consistent with expectations based on the logic model for the practice.

- Service delivery patterns are stable.
- A fidelity scale has been developed for assessing the integrity of the practice, and the practice has been implemented with fidelity according to the scale.

- Systematically collected short-term outcome measures indicate meaningful results.

- Consumers, family members, and other critical stakeholders are satisfied with the practice.

In addition, at the end of Phase II, grantees must:

- Demonstrate how consumers, family members, and other critical stakeholders participated in the evaluation of the practice.
- Demonstrate how the practice will be sustained over the 5 years following the end of the grant period.
- As appropriate, submit the practice to the SAMHSA National Registry of Effective Programs (NREP).
- Demonstrate the willingness of those who initiated the practice to participate in rigorous research over the next 5 years (*e.g.*, through submission of grant applications to the National Institutes of Health, private foundations, or other research funding sources; through formal agreements between practice initiators and researchers; etc.)

5. Data and Performance Measurement

The Government Performance and Results Act of 1993 (Pub. L. 103-62, or "GPRA") requires all Federal agencies to set program performance targets and report annually on the degree to which the previous year's targets were met.

Agencies are expected to evaluate their programs regularly and to use results of these evaluations to explain their successes and failures and justify requests for funding.

To meet the GPRA requirements, SAMHSA must collect performance data (*i.e.*, "GPRA data") from grantees. Grantees are required to report these GPRA data to SAMHSA on a timely basis.

Specifically, grantees will be required to provide data on a set of required measures, as specified in the NOFA. The data collection tools to be used for reporting the required data will be provided in the application kits distributed by SAMHSA's clearinghouses and posted on SAMHSA's Web site along with each NOFA. In your application, you must demonstrate your ability to collect and report on these measures, and you may be required to provide some baseline data.

The terms and conditions of the grant award also will specify the data to be submitted and the schedule for

submission. Grantees will be required to adhere to these terms and conditions of award.

Applicants should be aware that SAMHSA is working to develop a set of required core performance measures for each of SAMHSA's standard grants (*i.e.*, Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants). As this effort proceeds, some of the data collection and reporting requirements included in SAMHSA's NOFAs may change. All grantees will be expected to comply with any changes in data collection requirements that occur during the grantee's project period.

6. Grantee Meetings

You must plan to send a minimum of two people (including the Project Director) to at least one joint grantee meeting in each year of the grant, and you must include funding for this travel in your budget. At these meetings, grantees will present the results of their projects and Federal staff will provide technical assistance. Each meeting will be 3 days. These meetings will usually be held in the Washington, DC, area, and attendance is mandatory.

II. Award Information

A. Award Amount

The NOFA will specify the expected award amount for each funding opportunity. Regardless of the amount specified in the NOFA, the actual award amount will depend on the availability of funds.

You may apply for either a combined Phase I & II grant or for a Phase II only grant.

- Awards for Phase I of the combined grants are for up to \$150,000 (direct and indirect costs) per year for up to 2 years.

- Awards for Phase II are \$300,000–\$500,000 (direct and indirect costs) per year for 1–3 years.

- Awards for combined Phase I and II grants may not exceed 5 years.

Phase II funding will be approved only if you provide compelling evidence that the practice has been sufficiently developed and documented to be evaluated and has produced positive results.

Applications with proposed budgets that exceed the allowable amount as specified in the NOFA in any year of the proposed project will be screened out and will not be reviewed. Annual continuation awards will depend on the availability of funds, grantee progress in meeting project goals and objectives, and timely submission of required data and reports.

SUMMARY TABLE:

Phase	Activity focus	Years of support	Application requirement	Funding level (direct and indirect costs)
I	Practice Development and Documentation	0-2	Optional	Up to \$150,000 per year \$300,000-\$500,000 per year
II	Practice Evaluation	1-3	Required	
Total .....	.....	1-5		

B. Funding Mechanism

The NOFA will indicate whether awards for each funding opportunity will be made as grants or cooperative agreements (see the Glossary in Appendix B for further explanation of these funding mechanisms). For cooperative agreements, the NOFA will describe the nature of Federal involvement in project performance and specify roles and responsibilities of grantees and Federal staff.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants are domestic public and private nonprofit entities. For example, State, local or tribal governments; public or private universities and colleges; community- and faith-based organizations; and tribal organizations may apply. The statutory authority for this program precludes grants to for-profit organizations. The NOFA will indicate any limitations on eligibility.

Though not required, SAMHSA encourages community-based providers and independent researchers to partner when applying for Service-to-Science grants. Such partnerships will use the expertise of each partner to ensure sound service delivery, high-quality evaluation, independent results, and relevance of the evaluation design to service delivery outcomes.

B. Cost-Sharing

Cost-sharing (see Glossary) is not required in this program, and applications will not be screened out on the basis of cost-sharing. However, you may include cash or in-kind (see Glossary) contributions in your proposal as evidence of commitment to the proposed project.

C. Other

SAMHSA applicants must comply with certain program requirements, including:

- Budgetary limitations as specified in Sections I, II, and IV-E of this document; and
- Documentation of nonprofit status as required in the PHS 5161-1.

You also must comply with any additional program requirements specified in the NOFA, such as the required signature of certain officials on the face page of the application and/or required memoranda of understanding with certain signatories.

Applications that do not comply with the eligibility and specific program requirements for the funding opportunity for which the application is submitted will be screened out and will not be reviewed.

IV. Application and Submission Information

(To ensure that you have met all submission requirements, a checklist is provided for your use in Appendix A of this document.)

A. Address To Request Application Package

You may request a complete application kit by calling one of SAMHSA's national clearinghouses:

- For substance abuse prevention or treatment grants, call the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1-800-729-6686.
- For mental health grants, call the National Mental Health Information Center at 1-800-789-CMHS (2647).

You also may download the required documents from the SAMHSA Web site at www.samhsa.gov. Click on "grant opportunities."

Additional materials available on this Web site include:

- A technical assistance manual for potential applicants;
- Standard terms and conditions for SAMHSA grants;
- Guidelines and policies that relate to SAMHSA grants (e.g., guidelines on cultural competence, consumer and family participation, and evaluation); and
- Enhanced instructions for completing the PHS 5161-1 application.

B. Content and Form of Application Submission

1. Required Documents

SAMHSA application kits include the following documents:

- PHS 5161-1 (revised July 2000)—Includes the face page, budget forms, assurances, certification, and checklist. You must use the PHS 5161-1 unless otherwise specified in the NOFA. Applications that are not submitted on the required application form will be screened out and will not be reviewed.

- Program Announcement (PA)—Includes instructions for the grant application. This document is the PA.
- Notice of Funding Availability (NOFA)—Provides specific information about availability of funds, as well as any exceptions or limitations to provisions in the PA.

The NOFAs will be published in the **Federal Register** as well as on the Federal grants Web site (www.grants.gov).

You must use all of the above documents in completing your application.

2. Required Application Components

To ensure equitable treatment of all applications, SAMHSA will accept only complete applications for review. In order for your application to be complete, it must include the required ten application components (Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist). Applications that do not contain the required components will be screened out and will not be reviewed.

- *Face Page*—Use Standard Form (SF) 424, which is part of the PHS 5161-1. [Note: Beginning October 1, 2003, applicants will need to provide a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. SAMHSA applicants will be required to provide their DUNS number on the face page of the application. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access the Dun and Bradstreet Web site at www.dunandbradstreet.com or call 1-866-705-5711. To expedite the process, let Dun and Bradstreet know that you are a public/private nonprofit

organization getting ready to submit a Federal grant application.]

- *Abstract*—Your total abstract should be no longer than 35 lines. In the first five lines or less of your abstract, write a summary of your project that can be used, if your project is funded, in publications, reporting to Congress, or press releases.

- *Table of Contents*—Include page numbers for each of the major sections of your application and for each appendix.

- *Budget Form*—Use SF 424A, which is part of the PHS 5161–1. Fill out Sections B, C, and E of the SF 424A.

- *Project Narrative and Supporting Documentation*—The Project Narrative describes your project. It consists of Sections A through D. These sections in total may be no longer than 25 pages. More detailed instructions for completing each section of the Project Narrative are provided in “Section V—Application Review Information” of this document.

The Supporting Documentation provides additional information necessary for the review of your application. This supporting documentation should be provided immediately following your Project Narrative in Sections E through H. There are no page limits for these sections, except for Section G, the Biographical Sketches/Job Descriptions.

- *Section E*—Literature Citations. This section must contain complete citations, including titles and all authors, for any literature you cite in your application.

- *Section F*—Budget Justification, Existing Resources, Other Support. You must provide a narrative justification of the items included in your proposed budget, as well as a description of existing resources and other support you expect to receive for the proposed project.

- *Section G*—Biographical Sketches and Job Descriptions.

- Include a biographical sketch for the Project Director and other key positions. Each sketch should be 2 pages or less. If the person has not been hired, include a letter of commitment from the individual with a current biographical sketch.

- Include job descriptions for key personnel. Job descriptions should be no longer than 1 page each.

- Sample sketches and job descriptions are listed on page 22, Item 6 in the Program Narrative section of the PHS 5161–1.

- *Section H*—Confidentiality and SAMHSA Participant Protection/Human Subjects. VIII–A of this document describes requirements for the

protection of the confidentiality, rights and safety of participants in SAMHSA-funded activities. This section also includes guidelines for completing this part of your application.

- *Appendices 1 through 5*—Use only the appendices listed below. Do not use more than 30 pages for Appendices 1, 4, and 5. There are no page limitations for Appendices 2 and 3. Do not use appendices to extend or replace any of the sections of the Project Narrative unless specifically required in the NOFA. Reviewers will not consider them if you do.

- Appendix 1: Letters of Support.
- Appendix 2: Documentation of the Practice (Phase II only applicants).
- Appendix 3: Data Collection Instruments/Interview Protocols.
- Appendix 4: Sample Consent Forms.

- Appendix 5: Letter to the SSA (if applicable; see Section VIII–C of this document).

- *Assurances*—Non-Construction Programs. Use Standard Form 424B found in PHS 5161–1. Some applicants will be required to complete the Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations Form SMA 170. If this assurance applies to a specific funding opportunity, it will be posted on SAMHSA’s Web site with the NOFA and provided in the application kits available at SAMHSA’s clearinghouse (NCADI).

- *Certifications*—Use the “Certifications” forms found in PHS 5161–1.

- *Disclosure of Lobbying Activities*—Use form SF LLL found in the PHS 5161–1. Federal law prohibits the use of appropriated funds for publicity or propaganda purposes, or for the preparation, distribution, or use of the information designed to support or defeat legislation pending before the Congress or State legislatures. This includes “grass roots” lobbying, which consists of appeals to members of the public suggesting that they contact their elected representatives to indicate their support for or opposition to pending legislation or to urge those representatives to vote in a particular way.

- *Checklist*—Use the Checklist found in PHS 5161–1. The Checklist ensures that you have obtained the proper signatures, assurances and certifications and is the last page of your application.

3. *Application Formatting Requirements*

Applicants also must comply with the following basic application requirements. Applications that do not

comply with these requirements will be screened out and will not be reviewed.

- Text must be legible.
- Paper must be white and 8.5” by 11.0” in size.

- Pages must be typed single-spaced with one column per page.

- Page margins must be at least one inch.

- Type size in the Project Narrative cannot exceed an average of 15 characters per inch when measured with a ruler. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

- Photo reduction or condensation of type cannot be closer than 15 characters per inch or 6 lines per inch.

- Pages cannot have printing on both sides.

- Page limitations specified for the Project Narrative and Appendices cannot be exceeded.

- Information provided must be sufficient for review.

To facilitate review of your application, follow these additional guidelines:

- Applications should be prepared using black ink. This improves the quality of the copies of applications that are provided to reviewers.

- Do not use heavy or light-weight paper or any material that cannot be photocopied using automatic photocopying machines. Odd-sized and oversized attachments, such as posters, will not be copied or sent to reviewers. Do not send videotapes, audiotapes, or CD-ROMs.

- Pages should be numbered consecutively from beginning to end so that information can be located easily during review of the application. For example, the cover page should be labeled “page 1,” the abstract page should be “page 2,” and the table of contents page should be “page 3.” Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue in the sequence.

C. *Submission Dates and Times*

Deadlines for submission of applications for specific funding opportunities will be published in the NOFAs in the **Federal Register** and posted on the Federal grants Web site (<http://www.grants.gov>).

Your application must be received by the application deadline. Applications received after this date must have a proof-of-mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing.

You will be notified by postal mail that your application has been received.

Applications not received by the application deadline or not postmarked by a week prior to the application deadline will be screened out and will not be reviewed.

D. Intergovernmental Review (E.O. 12372) Requirements

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR Part 100, sets up a system for State and local review of applications for Federal financial assistance. Instructions for this review are included in Section VIII-B of this document. Section VIII-C provides instructions for the Public Health System Impact Statement (PHSIS) and submission of comments from the Single State Agency (SSA).

E. Funding Limitations/Restrictions

Cost principles describing allowable and unallowable expenditures for Federal grantees, including SAMHSA grantees, are provided in the following documents:

- Institutions of Higher Education: OMB Circular A-21
- State and Local Governments: OMB Circular A-87
- Nonprofit Organizations: OMB Circular A-122
- Appendix E Hospitals: 45 CFR part 74

In addition, SAMHSA Service-to-Science grant funds may not be used to:

- Pay for any lease beyond the project period.
- Provide services to incarcerated populations (defined as those persons in jail, prison, detention facilities, or in custody where they are not free to move about in the community).
- Pay for the purchase or construction of any building or structure to house any part of the program. (Applicants may request up to \$75,000 for renovations and alterations of existing facilities, if necessary and appropriate to the project.)
- Provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible.)
- Pay for housing other than residential mental health and/or substance abuse treatment.
- Provide inpatient treatment or hospital-based detoxification services. Residential services are not considered to be inpatient or hospital-based services.
- Pay for incentives to induce clients to enter treatment. However, a grantee

or treatment provider may provide up to \$20 or equivalent (coupons, bus tokens, gifts, childcare, and vouchers) to clients as incentives to participate in required data collection follow-up. This amount may be paid for participation in each required interview.

- Implement syringe exchange programs, such as the purchase and distribution of syringes and/or needles.
- Pay for pharmacologies for HIV antiretroviral therapy, sexually transmitted diseases (STDs)/sexually transmitted illnesses (STI), TB, and hepatitis B and C, or for psychotropic drugs.

F. Other Submission Requirements

1. Where To Send Applications

Send applications to the following address: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17-89, Rockville, Maryland, 20857.

Be sure to include the funding announcement number from the NOFA in item number 10 on the face page of the application. If you require a phone number for delivery, you may use (301) 443-4266.

2. How To Send Applications

Mail an original application and 2 copies (including appendices) to the mailing address provided above. The original and copies must not be bound. Do not use staples, paper clips, or fasteners. Nothing should be attached, stapled, folded, or pasted.

You must use a recognized commercial or governmental carrier. Hand carried applications will not be accepted. Faxed or e-mailed applications will not be accepted.

V. Application Review Information

A. Evaluation Criteria

Your application will be reviewed and scored according to the quality of your response to the requirements listed below for developing the Project Narrative (Sections A-D). These sections describe what you intend to do with your project.

- In developing the Project Narrative section of your application, use these instructions, which have been tailored to this program. These are to be used instead of the "Program Narrative" instructions found in the PHS 5161-1.
- You must use the four sections/headings listed below in developing your Project Narrative. Be sure to place the required information in the correct section, or it will not be considered. Your application will be scored

according to how well you address the requirements for each section.

- Reviewers will be looking for evidence of cultural competence in each section of the Project Narrative. Points will be assigned based on how well you address the cultural competence aspects of the evaluation criteria. SAMHSA's guidelines for cultural competence can be found on the SAMHSA Web site at <http://www.samhsa.gov>. Click on "Grant Opportunities."

- The Supporting Documentation you provide in Sections E-H and Appendices 1 through 5 will be considered by reviewers in assessing your response, along with the material in the Project Narrative.

- The number of points after each heading below is the maximum number of points a review committee may assign to that section of your Project Narrative. Bullet statements in each section do not have points assigned to them. They are provided to invite the attention of applicants and reviewers to important areas within each section.

Section A: Statement of Need (15 points)

- Describe the problem the project will address. Describe the national significance of the problem. Documentation of need may come from a variety of qualitative and quantitative sources in the professional literature. The quantitative data could also come from national data available regarding mental health and substance use needs, gaps, and priorities. For example:

- Applications focusing on substance abuse might draw from SAMHSA's National Household Survey on Drug Use and Health (NHSDUH); Drug Abuse Warning Network (DAWN); and Drug and Alcohol Services Information System (DASIS), which includes the Treatment Episode Data Set (TEDS).

- Applications focusing on mental health might draw on data available from the National Association of State Mental Health Program Directors (NASMHPD), SAMHSA (<http://www.samhsa.gov/cmhs/MentalHealthStatistics>), or other sources.

Qualitative sources may also include conclusions of conferences and events of national significance.

- Describe the target population for the practice, including demographic information. Discuss the target population's language, beliefs, norms and values, as well as socioeconomic factors that must be considered in delivering programs to this population
- Review the literature that demonstrates a need to develop or adapt an effective practice for the target

population. Demonstrate through the literature review that current evidence-based approaches to the problem do not exist or have not been evaluated for the specific target populations, or that approaches of greater clinical or cost effectiveness are needed.

- Demonstrate that the need in the community in which the project will be carried out is of sufficient magnitude that an adequate evaluation of the practice can be conducted. To the extent possible, use locally generated data or State data such as that available through State needs assessments.

- Check the NOFA for any additional requirements.

Section B: Proposed Approach (30 points)

- Describe the practice proposed for evaluation. Document that the practice has been in place and operational for at least one year prior to the application due date.

- Describe how the proposed practice will respond to the needs described in Section A of your Project Narrative.

- Discuss the potential effectiveness of the practice proposed for evaluation. Why has this practice been selected?

Present the theoretical underpinnings, core principles, and major assumptions of the proposed practice. Outline the key operational elements of the practice and summarize any relevant literature.

- Identify any necessary collaborators on the project, including their roles and responsibilities. Demonstrate their commitment to the project. Include letters of support in Appendix 1: Letters of Support.

- Describe your experience with similar collaborative projects, and explain why you believe you will be able to sustain this collaboration throughout the project period.

- If applying for combined Phase I and II, describe the extent to which the practice has been previously developed, implemented, stabilized, and documented. Include a description of the extent to which the support system needed for full implementation of the proposed practice is in place—*e.g.*, community collaboration and consensus building; alignment of management information systems, policies, and funding mechanisms; documentation of core elements of the practice; reliable recruitment and intake procedures; quality assurance and accountability mechanisms; training and overall readiness of those implementing the practice; and involvement of families and consumers in the project.

- If applying for Phase II only, show that the practice is ready for systematic evaluation by providing documentation,

in Appendix 2, that includes all of the following:

- A logic model depicting the principles and concepts underlying the practice.

- A copy of the Title Page and Table of Contents for a manual describing the practice in detail that would allow others to replicate the practice, and details on how the manual can be acquired.

- Documentation of how critical stakeholders were included in the development of the practice.

- A detailed description of the population that the practice is designed to serve, and demographic characteristics of the people served by the practice over the past year.

- Demonstration of stability in the number of people being served by the practice.

- Documentation that staff are trained in the practice (via the number and percentage of staff trained), and a mechanism for ongoing training for any new staff.

- Evidence demonstrating that the practice is in full operation and that a routine service delivery process is in place.

- Pilot outcome results. (**Note:** Collection of these data need not include an extensive set of outcomes systematically collected on all participants, but quantitative project data should provide some indication that key outcomes are being achieved.)
- Present the goals and measurable objectives of the project. Describe why the practice can better be evaluated for effectiveness following completion of the grant activities. For applications that include Phase I, include in your description how achievement of your goals will fulfill the Performance Expectations cited in Section I–B of this document.

- Describe the action steps to accomplish the goals and objectives. Demonstrate that the action steps will lead to successful accomplishment of the goals and objectives.

- Describe the potential barriers to successful conduct of the proposed project and how you will overcome them.

- Describe how the proposed project will address issues of age, race/ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population.

- Check the NOFA for any additional requirements.

Section C: Evaluation Design and Analysis (40 points)

- Describe in detail your evaluation design for determining the effectiveness

of the practice. For applications that include Phase I, describe your process evaluation to determine that the practice is in full operation, as well as how you will track the number and percentage of staff fully trained in the practice.

- Describe the process and outcome evaluation protocols you intend to use.

Include in Appendix 3 evaluation instruments to be used. Describe any literature or pilot testing done to verify the validity and reliability of the instruments to be used or how you plan to develop the instruments during the grant period.

- Discuss the reliability and validity of evaluation methods and instrument(s) in terms of the gender/age/culture of the target population.

- Describe how you will develop and manage a database management system to record participant demographic characteristics, practice outcomes, service utilization, practice costs, and satisfaction of stakeholders with the practice.

- Describe how the integrity of the practice will be assessed using a fidelity (see Glossary) scale. If no fidelity scale currently exists for the practice, describe the process by which you will develop one during the grant period. Describe how you will document and assess changes to the model that occur throughout the project.

- Document your ability to collect and report on the required performance measures as specified in the NOFA, including data required by SAMHSA to meet GPRC requirements. Specify and justify any additional measures you plan to use for your grant project.

- Describe how you will analyze the data collected. Include any analyses that will be done to determine the effectiveness of the practice for diverse subgroups, as well as the satisfaction of various stakeholder groups with the practice.

- Describe how your process evaluation will document the role of critical stakeholders in the development and/or evaluation of the practice.

- Check the NOFA for any additional requirements.

Section D: Management Plan and Staffing (15 points)

- Provide a realistic time line for the project (chart or graph) showing key activities, milestones, and responsible staff. [**Note:** The time line should be part of the Project Narrative. It should not be placed in an appendix.]

- Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing

culturally appropriate/competent services.

- Provide a list of staff members who will conduct the project, showing the role of each and their level of effort and qualifications. Include the Project Director and other key personnel, such as evaluators and database management personnel.

- Describe the racial/ethnic characteristics of key staff and indicate if any are members of the target population/community. If the target population is multi-linguistic, indicate if the staffing pattern includes bilingual and bicultural individuals.

- If you plan to include an advisory body in your project, describe its membership, roles and functions, and frequency of meetings.

- Describe the resources available for the proposed project (e.g., facilities, equipment), and provide evidence that resources are adequate for conducting a high-quality evaluation of the identified practice.

- Check the NOFA for any additional requirements.

Note: Although the budget for the proposed project is not a review criterion, the review group will be asked to comment on the appropriateness of the budget after the merits of the application have been considered.

B. Review and Selection Process

SAMHSA applications are peer-reviewed according to the review criteria listed above. For those programs where the individual award is over \$100,000, applications must also be reviewed by the appropriate National Advisory Council.

C. Award Criteria

Decisions to fund a grant are based on:

- The strengths and weaknesses of the application as identified by the peer review committee and approved by the appropriate National Advisory Council; and

- Availability of funds.

VI. Award Administration Information

A. Award Notices

After your application has been reviewed, you will receive a letter from SAMHSA through postal mail that describes the general results of the review, including the score that your application received.

If you are approved for funding, you will receive an additional notice, the Notice of Grant Award, signed by SAMHSA's Grants Management Officer. The Notice of Grant Award is the sole obligating document that allows the grantee to receive Federal funding for

work on the grant project. It is sent by postal mail and is addressed to the contact person listed on the face page of the application.

If you are not funded, you can re-apply if there is another receipt date for the program.

B. Administrative and National Policy Requirements

- You must comply with terms and conditions of the grant award. Standard SAMHSA terms and conditions are available on SAMHSA's Web site (www.samhsa.gov).

- Depending on the nature of the specific funding opportunity and/or the proposed project as identified during review, additional terms and conditions may be identified in the NOFA or negotiated with the grantee prior to grant award. These may include, for example:

- Actions required to be in compliance with human subjects requirements;

- Requirements relating to additional data collection and reporting;

- Requirements relating to participation in a cross-site evaluation; or

- Requirements to address problems identified in review of the application.

- You will be held accountable for the information provided in the application relating to performance targets. SAMHSA program officials will consider your progress in meeting goals and objectives, as well as your failures and strategies for overcoming them, when making an annual recommendation to continue the grant and the amount of any continuation award. Failure to meet stated goals and objectives may result in suspension or termination of the grant award, or in reduction or withholding of continuation awards.

- In an effort to improve access to funding opportunities for applicants, SAMHSA is participating in the U.S. Department of Health and Human Services "Survey on Ensuring Equal Opportunity for Applicants." This survey is included in the application kit for SAMHSA grants. Applicants are encouraged to complete the survey and return it, using the instructions provided on the survey form.

C. Reporting Requirements

1. Progress and Financial Reports

- Grantees must provide annual and final progress reports. The final progress report must summarize information from the annual reports, describe the accomplishments of the project, and describe next steps for implementing

plans developed during the grant period.

- Grantees must provide annual and final financial status reports. These reports may be included as separate sections of annual and final progress reports or can be separate documents. Because SAMHSA is extremely interested in ensuring that treatment or prevention service efforts are sustained, your financial reports should explain plans to ensure the sustainability (*see* Glossary) of efforts initiated under this grant. Initial plans for sustainability should be described in year 1 of the grant. In each subsequent year, you should describe the status of the project, successes achieved and obstacles encountered in that year.

- SAMHSA will provide guidelines and requirements for these reports to grantees at the time of award and at the initial grantee orientation meeting after award. SAMHSA staff will use the information contained in the reports to determine the grantee's progress toward meeting its goals.

2. Government Performance and Results Act (GPRA)

The Government Performance and Results Act (GPRA) mandates accountability and performance-based management by Federal agencies. To meet the GPRA requirements, SAMHSA must collect performance data (*i.e.*, "GPRA data") from grantees. These requirements will be specified in the NOFA for each funding opportunity.

3. Publications

If you are funded under this grant program, you are required to notify the Government Project Officer (GPO) and SAMHSA's Publications Clearance Officer (301-443-8596) of any materials based on the SAMHSA-funded project that are accepted for publication.

In addition, SAMHSA requests that grantees:

- Provide the GPO and SAMHSA Publications Clearance Officer with advance copies of publications.

- Include acknowledgment of the SAMHSA grant program as the source of funding for the project.

- Include a disclaimer stating that the views and opinions contained in the publication do not necessarily reflect those of SAMHSA or the U.S. Department of Health and Human Services, and should not be construed as such.

SAMHSA reserves the right to issue a press release about any publication deemed by SAMHSA to contain information of program or policy significance to the substance abuse

treatment/substance abuse prevention/mental health services community.

VII. Agency Contacts

The NOFAs provide contact information for questions about program issues.

For questions on grants management issues, contact: Stephen Hudak, Office of Program Services, Division of Grants Management, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Rockwall II 6th Floor, Rockville, MD 20857, (301) 443-9666, shudak@samhsa.gov.

VIII. Other Information

A. Human Subjects Protection

You must describe your procedures relating to Confidentiality and the Protection of Human Subjects Regulations in Section H of your application, using the guidelines provided below. Problems with confidentiality and protection of human subjects identified during peer review of your application may result in the delay of funding.

Confidentiality and Participant Protection

All applicants must address each of the following elements relating to confidentiality and participant protection. You must describe how you will address these requirements.

1. Protect Clients and Staff From Potential Risks

- Identify and describe any foreseeable physical, medical, psychological, social, and legal risks or potential adverse effects as a result of the project itself or any data collection activity.
- Describe the procedures you will follow to minimize or protect participants against potential risks, including risks to confidentiality.
- Identify plans to provide guidance and assistance in the event there are adverse effects to participants.
- Where appropriate, describe alternative treatments and procedures that may be beneficial to the participants. If you choose not to use these other beneficial treatments, provide the reasons for not using them.

2. Fair Selection of Participants

- Describe the target population(s) for the proposed project. Include age, gender, and racial/ethnic background and note if the population includes homeless youth, foster children, children of substance abusers, pregnant women, or other targeted groups.
- Explain the reasons for including groups of pregnant women, children,

people with mental disabilities, people in institutions, prisoners, and individuals who are likely to be particularly vulnerable to HIV/AIDS.

- Explain the reasons for including or excluding participants.
- Explain how you will recruit and select participants. Identify who will select participants.

3. Absence of Coercion

- Explain if participation in the project is voluntary or required. Identify possible reasons why participation is required, for example, court orders requiring people to participate in a program.
- If you plan to compensate participants, state how participants will be awarded incentives (e.g., money, gifts, etc.).
- State how volunteer participants will be told that they may receive services intervention even if they do not participate in or complete the data collection component of the project.

4. Data Collection

- Identify from whom you will collect data (e.g., from participants themselves, family members, teachers, others). Describe the data collection procedures and specify the sources for obtaining data (e.g., school records, interviews, psychological assessments, questionnaires, observation, or other sources). Where data are to be collected through observational techniques, questionnaires, interviews, or other direct means, describe the data collection setting.
- Identify what type of specimens (e.g., urine, blood) will be used, if any. State if the material will be used just for evaluation or if other use(s) will be made. Also, if needed, describe how the material will be monitored to ensure the safety of participants.
- Provide in Appendix 3: Data Collection Instruments/Interview Protocols, copies of all available data collection instruments and interview protocols that you plan to use.

5. Privacy and Confidentiality

- Explain how you will ensure privacy and confidentiality. Include who will collect data and how it will be collected.
- Describe:
 - How you will use data collection instruments.
 - Where data will be stored.
 - Who will or will not have access to information.
 - How the identity of participants will be kept private, for example, through the use of a coding system on data records, limiting access to records,

or storing identifiers separately from data.

Note: If applicable, grantees must agree to maintain the confidentiality of alcohol and drug abuse client records according to the provisions of Title 42 of the Code of Federal Regulations, Part II.

6. Adequate Consent Procedures

- List what information will be given to people who participate in the project. Include the type and purpose of their participation. Identify the data that will be collected, how the data will be used, and how you will keep the data private.
 - State:
 - Whether or not their participation is voluntary.
 - Their right to leave the project at any time without problems.
 - Possible risks from participation in the project.
 - Plans to protect clients from these risks.
 - Explain how you will get consent for youth, the elderly, people with limited reading skills, and people who do not use English as their first language.

Note: If the project poses potential physical, medical, psychological, legal, social or other risks, you must obtain written informed consent.

- Indicate if you will obtain informed consent from participants or assent from minors along with consent from their parents or legal guardians. Describe how the consent will be documented. For example: Will you read the consent forms? Will you ask prospective participants questions to be sure they understand the forms? Will you give them copies of what they sign?
 - Include, as appropriate, sample consent forms that provide for: (1) Informed consent for participation in service intervention; (2) informed consent for participation in the data collection component of the project; and (3) informed consent for the exchange (releasing or requesting) of confidential information. The sample forms must be included in Appendix 4, "Sample Consent Forms", of your application. If needed, give English translations.

Note: Never imply that the participant waives or appears to waive any legal rights, may not end involvement with the project, or releases your project or its agents from liability for negligence.

- Describe if separate consents will be obtained for different stages or parts of the project. For example, will they be needed for both participant protection in treatment intervention and for the collection and use of data?
 - Additionally, if other consents (e.g., consents to release information to others

or gather information from others) will be used in your project, provide a description of the consents. Will individuals who do not consent to having individually identifiable data collected for evaluation purposes be allowed to participate in the project?

7. Risk/Benefit Discussion

Discuss why the risks are reasonable compared to expected benefits and importance of the knowledge from the project.

Protection of Human Subjects Regulations

All applicants for Service-to-Science grants must comply with the Protection of Human Subjects Regulations (45 CFR part 46).

Applicants must describe the process for obtaining Institutional Review Board (IRB) approval fully in their applications. While IRB approval is not required at the time of grant award, you will be required, as a condition of award, to provide the documentation that an Assurance of Compliance is on file with the Office for Human Research Protections (OHRP) and that IRB approval has been received prior to enrolling any participants in the proposed project.

Additional information about Protection of Human Subjects Regulations can be obtained on the Web at <http://ohrp.osophs.dhhs.gov>. You may also contact OHRP by e-mail (ohrp@osophs.dhhs.gov) or by phone (301-496-7005).

B. Intergovernmental Review (E.O. 12372) Instructions

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and can be downloaded from the Office of Management and Budget (OMB) Web site at www.whitehouse.gov/omb/grants/spoc.html.

- Check the list to determine whether your State participates in this program. You do not need to do this if you are a federally recognized Indian tribal government.
- If your State participates, contact your SPOC as early as possible to alert him/her to the prospective application(s) and to receive any necessary instructions on the State's review process.
- For proposed projects serving more than one State, you are advised to

contact the SPOC of each affiliated State.

- The SPOC should send any State review process recommendations to the following address within 60 days of the application deadline: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17-89, Rockville, Maryland, 20857, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from the NOFA].

C. Public Health System Impact Statement (PHSIS)

The Public Health System Impact Statement or PHSIS (approved by OMB under control no. 0920-0428; see burden statement below) is intended to keep State and local health officials informed of proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions. State and local governments and Indian tribal government applicants are not subject to the following Public Health System Reporting Requirements.

Community-based, non-governmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected no later than the pertinent receipt date for applications. This PHSIS consists of the following information:

- A copy of the face page of the application (SF 424); and
- A summary of the project, no longer than one page in length, that provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with appropriate State or local health agencies.

For SAMHSA grants, the appropriate State agencies are the Single State Agencies (SSAs) for substance abuse and mental health. A listing of the SSAs can be found on SAMHSA's Web site at www.samhsa.gov. If the proposed project falls within the jurisdiction of more than one State, you should notify all representative SSAs.

Applicants who are not the SSA must include a copy of a letter transmitting the PHSIS to the SSA in Appendix 5: Letter to the SSA. The letter must notify the State that, if it wishes to comment on the proposal, its comments should be sent not later than 60 days after the application deadline to: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers

Lane, Room 17-89, Rockville, Maryland, 20857, ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition:

- Applicants may request that the SSA send them a copy of any State comments.
- The applicant must notify the SSA within 30 days of receipt of an award. [Public reporting burden for the Public Health System Reporting Requirement is estimated to average 10 minutes per response, including the time for copying the face page of SF 424 and the abstract and preparing the letter for mailing. 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 number for this project is 0920-0428. Send comments regarding this burden to CDC Clearance Officer, 1600 Clifton Road, MS D-24, Atlanta, GA 30333, ATTN: PRA (0920-0428)].

Appendix A—Checklist for Application Formatting Requirements

Your application must adhere to these formatting requirements. Failure to do so will result in your application being screened out and returned to you without review. In addition to these formatting requirements, there may be programmatic requirements specified in the NOFA. Please check the NOFA before preparing your application.

- Use the PHS 5161-1 application.
- The 10 application components required for SAMHSA applications must be included (*i.e.*, Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist.)
 - Text must be legible.
 - Paper must be white paper and 8.5" by 11.0" in size.
 - Pages must be single-spaced with one column per page.
 - Margins must be at least one inch.
 - Type size in the Project Narrative cannot exceed an average of 15 characters per inch when measured with a ruler. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)
 - Photo reduction or condensation of type cannot be closer than 15 characters per inch or 6 lines per inch.
 - Page limitations specified for the Project Narrative (25 pages) and Appendices (30 pages) cannot be exceeded.
 - Information provided must be sufficient for review.
 - Applications must be received by the application deadline. Applications received after this date must have a proof of mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing. Applications not received by

the application deadline or postmarked a week prior to the application deadline will not be reviewed.

- Applications that do not comply with the following requirements and any additional program requirements specified in the NOFA, or are otherwise unresponsive to PA guidelines, will be screened out and returned to the applicant without review:

- Provisions relating to confidentiality, participant protection and the protection of human subjects specified in Section VIII–A of this document.

- Budgetary limitations as specified in Section I, II, and IV–E of this document.

- Documentation of nonprofit status as required in the PHS 5161–1;

To facilitate review of your application, follow these additional guidelines. Failure to follow these guidelines will not result in your application being screened out.

However, following these guidelines will help reviewers to consider your application.

- Please use black ink and number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

- Send the original application and two copies to the mailing address in the PA. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD-ROMs.

Appendix B—Glossary

Best Practice: Best practices are practices that incorporate the best objective information currently available regarding effectiveness and acceptability.

Catchment Area: A catchment area is the geographic area from which the target population to be served by a program will be drawn.

Cooperative Agreement: A cooperative agreement is a form of Federal grant. Cooperative agreements are distinguished from other grants in that, under a cooperative agreement, substantial involvement is anticipated between the awarding office and the recipient during performance of the funded activity. This involvement may include collaboration, participation, or intervention in the activity. HHS awarding offices use grants or cooperative agreements (rather than contracts) when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

Cost-Sharing or Matching: Cost-sharing refers to the value of allowable non-Federal contributions toward the allowable costs of a Federal grant project or program. Such contributions may be cash or in-kind contributions. For SAMHSA grants, cost-sharing or matching is not required, and applications will not be screened out on the basis of cost-sharing. However, applicants often include cash or in-kind contributions in their proposals as evidence of commitment to the proposed project. This is allowed, and this information may be considered by reviewers in evaluating the quality of the application.

Fidelity: Fidelity is the degree to which a specific implementation of a program or practice resembles, adheres to, or is faithful to the evidence-based model on which it is based. Fidelity is formally assessed using rating scales of the major elements of the evidence-based model. A toolkit on how to develop and use fidelity instruments is available from the SAMHSA-funded Evaluation Technical Assistance Center at <http://tecathrsri.org> or by calling (617) 876–0426.

Grant: A grant is the funding mechanism used by the Federal Government when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

In-Kind Contribution: In-kind contributions toward a grant project are non-cash contributions (e.g., facilities, space, services) that are derived from non-Federal sources, such as State or sub-State non-Federal revenues, foundation grants, or contributions from other non-Federal public or private entities.

Logic Model: A logic model is a diagrammatic representation of a theoretical framework. A logic model describes the logical linkages among program resources, conditions, strategies, short-term outcomes, and long-term impact. More information on how to develop logics models and examples can be found through the resources listed in Appendix C.

Practice: A practice is any activity, or collective set of activities, intended to improve outcomes for people with or at risk for substance abuse and/or mental illness. Such activities may include direct service provision, or they may be supportive activities, such as efforts to improve access to and retention in services, organizational efficiency or effectiveness, community readiness, collaboration among stakeholder groups, education, awareness, training, or any other activity that is designed to improve outcomes for people with or at risk for substance abuse or mental illness.

Practice Support System: This term refers to contextual factors that affect practice delivery and effectiveness in the pre-adoption phase, delivery phase, and post-delivery phase, such as (a) community collaboration and consensus building, (b)

training and overall readiness of those implementing the practice, and (c) sufficient ongoing supervision for those implementing the practice.

Stakeholder: A stakeholder is an individual, organization, constituent group, or other entity that has an interest in and will be affected by a proposed grant project.

Sustainability: Sustainability is the ability to continue a program or practice after SAMHSA grant funding has ended.

Target Population: The target population is the specific population of people whom a particular program or practice is designed to serve or reach.

Wraparound Service: Wraparound services are non-clinical supportive services—such as child care, vocational, educational, and transportation services—that are designed to improve the individual's access to and retention in the proposed project.

Appendix C—Logic Model Resources

Chen, W.W., Cato, B.M., & Rainford, N. (1998–9). Using a logic model to plan and evaluate a community intervention program: A case study. *International Quarterly of Community Health Education*, 18(4), 449–458.

Edwards, E.D., Seaman, J.R., Drews, J., & Edwards, M.E. (1995). A community approach for Native American drug and alcohol prevention programs: A logic model framework. *Alcoholism Treatment Quarterly*, 13(2), 43–62.

Hernandez, M. & Hodges, S. (2003). *Crafting Logic Models for Systems of Care: Ideas into Action*. [Making children's mental health services successful series, volume 1]. Tampa, FL: University of South Florida, The Louis de la Parte Florida Mental Health Institute, Department of Child & Family Studies, <http://www.cfs.fmhi.usf.edu> or phone (813) 974–4651

Hernandez, M. & Hodges, S. (2001). Theory-based accountability. In M. Hernandez & S. Hodges (Eds.), *Developing Outcome Strategies in Children's Mental Health*, pp. 21–40. Baltimore: Brookes.

Julian, D.A. (1997). Utilization of the logic model as a system level planning and evaluation device. *Evaluation and Planning*, 20(3), 251–257.

Julian, D.A., Jones, A., & Deyo, D. (1995). Open systems evaluation and the logic model: Program planning and evaluation tools. *Evaluation and Program Planning*, 18(4), 333–341.

Patton, M.Q. (1997). *Utilization-Focused Evaluation* (3rd Ed.), pp. 19, 22, 241. Thousand Oaks, CA: Sage.

Wholey, J.S., Hatry, H.P., Newcome, K.E. (Eds.) (1994). *Handbook of Practical Program Evaluation*. San Francisco, CA: Jossey-Bass Inc.

Dated: November 13, 2003.

Daryl Kade,

Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.

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Federal Register

**Friday,
November 21, 2003**

Part III

Securities and Exchange Commission

17 CFR Part 241

**Commission Guidance on Rule 3b-3 and
Married Put Transactions; Final Rule**

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 241

[Release No. 34-48795]

Commission Guidance on Rule 3b-3 and Married Put Transactions

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The Securities and Exchange Commission is publishing interpretive guidance on calculating a "net long" position under the Securities Exchange Act of 1934 when using married put transactions as a part of certain trading strategies. A seller of securities is required to aggregate all of its positions in that security to determine the seller's "net long" position. Determining security ownership is an essential component to aggregating security positions under the Securities Exchange Act of 1934. The guidance we are publishing today clarifies the determination of security ownership when married puts transactions are used.

EFFECTIVE DATE: November 21, 2003.

FOR FURTHER INFORMATION CONTACT: Any of the following attorneys in the Office of Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-1001, at (202) 942-0772: James Brigagliano, Assistant Director, or Gregory Dumark, Kevin Campion, and Elizabeth Sandoe, Special Counsels.

SUPPLEMENTARY INFORMATION:

I. Background

A seller of securities must determine whether a sale is "long" or "short" because of special provisions applying to short sales.¹ This determination depends in significant measure on whether the seller owns the security to be sold and the seller's net position in the security. Rule 3b-3 under the Exchange Act provides, in part, that a person owns a security if he or his agent has title to a security or he has purchased or has entered into an

¹ This interpretation discusses the operation of Rule 10a-1 under the Securities Exchange Act of 1934 ("Exchange Act"), 17 CFR 240.10a-1, and Rule 105 of Regulation M, 17 CFR 242.105. It does not address the operation of all provisions that apply to short sales, such as general anti-fraud and anti-manipulation provisions, e.g., Sections 17(a)(1) and 10b-5 of the Exchange Act, and self-regulatory organization rules, e.g., National Association of Securities Dealers, Inc. ("NASD") Rule 3370, New York Stock Exchange ("NYSE") Rule 440C.

unconditional contract to purchase it but has not yet received it.²

The seller's net position must be determined with reference to Rule 3b-3. Rule 3b-3 requires a seller of an equity security to aggregate all of its positions in that security.³ If the seller has a "net long" position in the security after this aggregation process, then the sale may be effected as a "long" sale to the extent of the "net long" position. If the aggregation process results in a "flat" or "net short" position, the sale must be effected as a "short" sale. All sell orders in any security registered on or admitted to unlisted trading privileges on a national securities exchange must be marked either "long" or "short."⁴ A short sale of an exchange-listed security must comply with Rule 10a-1 under the Exchange Act.⁵ A sale of a "long" position is not subject to the price test of Rule 10a-1.

Calculation of a seller's net position is also necessary for compliance with Rule 105 of Regulation M.⁶ Rule 105 prohibits covering a short sale with offering securities obtained from an underwriter or dealer if the short sale

² 17 CFR 240.3b-3(a)-(b). In addition, Rule 3b-3 provides that a person has a "long" position in a security if he holds convertible securities, options, rights, or warrants, and has tendered for conversion or exchange the convertible securities or exercised the options, rights, or warrants. 17 CFR 240.3b-3(c)-(e). Rule 3b-3 defines the term "short sale" as any sale of a security that the seller does not own or any sale that is consummated by the delivery of a security borrowed by, or for the account of, the seller.

³ See Exchange Act Release No. 20230 (September 27, 1983), 48 FR 45119, 45120 (October 3, 1983) (to determine whether a person has a "net long" position in a security, all accounts must be aggregated).

⁴ 17 CFR 240.10a-1(c).

⁵ 17 CFR 240.10a-1. Rule 10a-1 (commonly referred to as the "short sale rule" or "tick test") prohibits, subject to certain narrow exceptions, short sales of any security registered on or admitted to unlisted trading privileges on a national securities exchange on minus or zero-minus ticks. Generally, the short sale rule is designed to prevent short selling from accelerating a declining market. Aggregation under Rule 3b-3 is also necessary to ensure compliance with the short sale "bid test" of NASD Rule 3350. See Rule 3350(k)(1) and NASD Notice to Members 94-68, Question 15.

⁶ 17 CFR 242.105. Rule 105 prevents persons from covering short sales with offering securities purchased from an underwriter, broker, or dealer participating in the offering if the short sale was effected during the Rule's restricted period, which is typically five days prior to pricing and ending with pricing ("105 restricted period.") Rule 105 is designed to ensure that "secondary" and "repeat" offering prices are based on open market prices determined by supply and demand rather than influenced by artificial forces, and to prevent artificial depression of trading markets that may reduce an issuer's offering proceeds. See *Short Sales in Connection with a Public Offering*, Exchange Act Release No. 26028 (August 25, 1988), 53 FR 33455 (August 31, 1988) (release adopting the predecessor to Rule 105, Rule 10b-21, which prohibited substantially the same conduct as Rule 105).

occurred during the period 5 days prior to pricing until pricing or the period from filing the registration until pricing, whichever is shorter.⁷ Thus, a seller needs to know if any sales during the 5-day period prior to certain repeat or secondary offerings are short sales for which offering shares may not be used to cover such sales.

This release discusses the operation of Rule 3b-3 with respect to sellers who may claim to have a position in a security by virtue of having entered into a "married put" transaction.⁸

II. Discussion

A married put is the purchase of an option to sell (*i.e.*, a put option) a certain number of securities at a particular price by a specified time, bought contemporaneously with the same number of underlying securities.⁹ When used as a hedging vehicle, the married put is designed to provide protection to the holder of the stock against losses, *i.e.*, if the price of the stock goes up, the put will not be exercised and will expire worthless, and if the price of the stock goes down, the put may be exercised by the holder to sell the underlying stock at the strike price.

The Securities and Exchange Commission (the "Commission") is concerned about the abusive use of married puts as a part of trading strategies designed to evade the application of Rule 10a-1 and Rule 105.¹⁰ Some of these strategies appear to

⁷ 17 CFR 242.105(a)(1) and (a)(2). Rule 105 does not apply to offerings filed under Rule 415 of the Securities Act of 1933 (*i.e.*, "shelf offerings") or to offerings that are not conducted on a firm commitment basis. 17 CFR 242.105(b).

⁸ The Commission has proposed new Regulation SHO that, among other things, would apply a new uniform bid test to all exchange-listed securities and Nasdaq National Market System ("NMS Security") securities, wherever traded, allowing short sales to be effected at a price one cent above the consolidated best bid. The interpretive guidance we are issuing today on calculating a "net long" position applies regardless of whether the Commission adopts Regulation SHO.

⁹ The term "married put" is used to describe the underlying transaction, *i.e.*, the linked purchase of securities and the put option to sell an equivalent number of securities. Several different terms have been used in the industry to describe various strategies involving married put transactions including, but not limited to, "bullets," "ghost bullets," "bullet trades," and "slam dunks." All of these strategies involve the use of married put transactions.

¹⁰ Traders may also be using married put transactions as part of a scheme to avoid the short sale "bid test" adopted by the NASD, Rule 3350. Although an NASD rule, a trader must calculate his "net long" position pursuant to Commission Rule 3b-3 in order to comply with Rule 3350. See, *supra* n. 5. Rule 3350 provides that with respect to trades executed on or reported to Nasdaq no member shall effect a short sale, for the account of a customer or for its own account, in a Nasdaq NMS security at

be designed to avoid possible trade execution delays associated with complying with the "tick test" of Rule 10a-1. Other strategies are intended to avoid aggregation obligations.¹¹ Some strategies may involve the manipulative sale of securities underlying a married put as part of a scheme to drive the market price down and later profit by purchasing the securities at a depressed price.¹²

Most recently, we have become aware of certain strategies in which traders may acquire married puts as part of what may be an effort to circumvent the application of Rule 105. In these schemes traders enter into married put transactions during the restricted period 5 days before (or, sometimes, on the day of) pricing in a "secondary" or "repeat" offering.¹³ Thereafter, the traders aggressively sell the stock portion of the married put as "long" sales, exercise the puts at the end of the day they are obtained, and then use securities obtained in the offering (sometimes obtained at a discount to the closing price) to cover their restricted period sales.

or below the current best (inside) bid displayed in the Nasdaq National Market Execution System when the current best (inside) bid is below the preceding best (inside) bid in the security. With respect to trades executed on or reported to the Alternative Display Facility, Rule 3350 provides that no member shall effect a short sale, for the account of a customer or for its own account, in a NMS Security at or below the current national best (inside) bid when the current national best (inside) bid is below the preceding national best (inside) bid in the security.

¹¹ For example, day-trading firms, where traders generally attempt to derive a profit by executing many intra-day trades to take advantage of small price movements in a stock, may find it difficult to aggregate the positions held by each day trader in calculating the firm's "net long" position under Rule 3b-3. As part of an effort to avoid aggregation, day-trading firms may use married put transactions to execute sales in a stock in a coordinated attempt to maintain a firm-wide "net long" position.

¹² We have previously expressed concern about the use of married put transactions as a part of such strategies. See Exchange Act Release No. 42037 (October 20, 1999), 64 FR 57996 (October 28, 1999) (Short Sale Concept Release). We noted that such strategies often involve the purchase of a married put just prior to, or simultaneous with, the sale of stock associated with the married put transaction. Soon after (*i.e.*, later in the day), the transaction is unwound when the market participant allegedly returns the securities to the facilitator of the married put transaction. In expressing concern about such activity, we concluded "a potential for abuse exists where the trader aggressively sells the "long" stock position, destabilizing the price of the stock, and soon after repurchases the stock in the market to return to the counter party. This type of strategy may present a heightened potential for manipulation." *Id.*

¹³ The first time an issuer conducts a public offering of its securities, the offering is referred to as an "initial public offering." Subsequent offerings by the issuer are referred to as "repeat" offerings. A "secondary" offering is an offering of securities held by shareholders.

This activity often enables the traders receiving offering shares to profit from the difference between the sales prices and the offering price, where the sales lowered the market price and, as a consequence, the market-based offering price. Not only is this manipulative conduct harmful to the market, but it also may have a substantial impact on the issuer and its shareholders that receive reduced offering proceeds as a result of the lower offering price.¹⁴

We find the use of married put transactions as a part of these strategies particularly troubling because they represent an attempt to facilitate the very kind of abuse that Rules 10a-1 and 105 are designed to prevent. In light of this activity, we have determined that it is necessary to provide notice to traders that, under certain circumstances, the securities underlying married puts will not provide ownership (*i.e.*, a "long" position) under Rule 3b-3.

We are issuing this guidance to address married puts that are used as part of an attempt to create a "long" position for the purpose of circumventing Rules 10a-1 and 105.¹⁵ Such transactions usually have some or all of the following characteristics (or a variation of them):

- the purchase of an at- or in-the-money non-standardized put option with a brief (1 to 5 day) expiration period,
- the contemporaneous purchase of an equivalent number of shares of the same security,
- the contemporaneous sale of the stock acquired with a married put, in essence divorcing the stock position from the put option,¹⁶

¹⁴ This activity impedes the markets from functioning as an independent pricing mechanism, undermines market integrity, and diminishes investor confidence.

¹⁵ The abusive use of married put transactions has also been discussed in the press. For example, see Torres, "Are 'Slam Dunks' on Troubled Stocks a Foul," Wall St. J., (February 1, 1991) (describing married puts as a "new weapon to 'raid' bad-news stocks."); see also Pulliam, "Bullet Strategy Makes Comeback as Trades Find a Way to Skirt Rules on Short Selling," Wall St. J., (October 14, 1998) (describing the married put strategy as a "rapid fire sale of stock that is designed to build on a wave of selling . . . even though the trader may be selling the married-put stock at a loss, the theory is that he will make an even bigger profit on the put option as its value rises based partly on the market impact of the aggressive stock selling.").

¹⁶ Identifying a contemporaneous divorce of the stock position from the put option as an indication of a possible abusive use of married put transactions should not discourage legitimate hedging because such activity is inconsistent with hedging. Separating the securities underlying a married put transaction from the put option eliminates one of the legitimate economic reasons why an investor may enter into a married put transaction, *i.e.*, its use to protect from any losses resulting from the stock price falling below the

• the repeated use of a "facilitator"¹⁷ that sells both the puts and the "long" position (often by selling the stock short to the counterparty),

• the "netting out" of the transaction between the facilitator and the counterparty, often at the end of the day the married put was purchased, and

• the payment of a standardized fee, not calculated in accordance with a standard options pricing model, to the facilitator for the transaction.¹⁸

The net result of these transactions is that there is minimal or no economic risk to the married put purchaser or the party facilitating the married put.¹⁹ These married puts are distinguishable from other paired positions of stock and options where each component is intended to offset the risk of the other. In those cases, both sides of the position are held for a period of time, and the

strike price of the option. Once the stock is divorced from the put option, a married put transaction is converted into a speculative "bearish" position, with the put option used as a substitute for a short position in the stock. This is not consistent with legitimate hedging but rather aligned with a short strategy. Moreover, it is unlikely that a trader anticipating obtaining a "long" position by virtue of an expected allocation of "repeat" or "secondary" offering shares would use a married put transaction as a legitimate hedging instrument. In such an instance, a trader most likely would simply purchase put options in the offering stock rather than purchasing both the stock and the put options.

¹⁷ Often, the married put transactions are structured so the facilitator sells the "long" position at a price equal to the strike price of the puts at the beginning of a trading day. At the end of the day the facilitator repurchases the security from the trader at the strike price charging a per share fee for the service. Other times, the facilitator may sell the put options with an in-the-money strike price, *i.e.*, the strike price is above the current market price, charging higher premiums as payment for the facilitating the married put transactions.

¹⁸ The options are not priced in accordance with a standard options pricing model, *e.g.*, the Black-Scholes option pricing model, that takes into account volatility of a securities return, the level of interest rates, the relationship of the underlying stock's price to the strike price of the option, and the time remaining until the option expires. Instead, the options are priced to ensure that transaction is netted out between the parties with the payment of a flat fee to the facilitator for the service, *i.e.*, a lending fee.

¹⁹ The Commission has previously indicated that where transactions involve no market risk and serve no purpose other than rendering a person an owner of a security in order to accomplish indirectly what was prohibited directly, the activity may violate the federal securities laws. See In the Matter of Shearson Lehman Brothers, Inc., Admin. Proc. File No. 3-7853, Exchange Act Release No. 31196 (September 17, 1992). See also In re Beville, Bresler & Schulman Asset Management Corp., 67 B.R. 557 (D.N.J. 1986) (Whether a particular repurchase agreement is characterized as a securities transaction or as a loan can be determined by the objective intent of the parties. Intent of the parties may be reflected in the terms of the transaction as well as extrinsic evidence of intent, such as books and records of the parties, accounting practices, regulatory treatment of the transactions, and trade custom and usage).

stock and options are priced at market levels.²⁰

These married transactions have been used in connection with various trading strategies, including, but not limited to, the following:

- contemporaneously with or shortly after the purchase of a married put, stock sales are made without regard to the “tick test” as part of a day trading strategy dependent on trading without short sale price test execution delays in order to profit from rapid intra-day trades to take advantage of small price movements in stocks,

- contemporaneously with or shortly after the purchase of a married put, aggressive, rapid stock sales on successive minus or zero-minus ticks as part of a short-term momentum play in which a trader’s strategy is aligned with a downward movement of the stock’s price, or

- contemporaneously with or shortly after the purchase of a married put, aggressive stock sales are made during the 5-day period prior to the pricing of a secondary or repeat offering where the trader’s strategy is aligned with a downward movement of the stock’s price in an effort to profit from the difference between the sales prices and the offering price.

We believe it is important to disabuse traders of any notion that the use of married puts, as described above,

²⁰ Even viewed in the most favorable light, these married put transactions appear to be nothing more than temporary stock lending agreements designed to give the appearance of a “long” position in order to effect sales of stock in a manner that would otherwise be prohibited. However, borrowed stock does not confer an ownership position under Rule 3b-3. Therefore, the sale of borrowed securities must be effected in compliance with short sale rules.

complies with Commission rules. As such, we are issuing this interpretative release as a means of providing all market participants with guidance regarding the use of married put transactions when determining their net positions under Rule 3b-3. Married puts with the characteristics described above are sham transactions that do not give rise to security ownership under Rule 3b-3.²¹ Therefore, sellers who use these types of married puts may violate Rule 10a-1 and Rule 105.²² Moreover, if sham married puts are used as part of a fraudulent or manipulative scheme, the conduct may also violate the Commission’s anti-fraud and anti-manipulation provisions, including, but not limited to, Sections 9(a) and 10(b) of the Exchange Act.²³

²¹ A variation on the married put transaction used to facilitate day trading strategies that also may be problematic is a “conversion” arrangement. In this arrangement, the trader that purchases the married put is long the stock, long a put option, and short a call option. The facilitator has the opposite side of the transaction, *i.e.*, short the stock, short a put option, and long a call option. Often, the put and call options have the same strike prices. This arrangement provides the facilitator with the right to call the stock to cover its short position at a prearranged price in the event the counter party to the transaction does not exercise the put option. As with married put transactions, where these arrangements, or other similar arrangements, have the characteristics described above, they do not give rise to security ownership under Rule 3b-3.

²² Scienter is not required to establish a violation of Rule 10a-1. *See U.S. v. Mandel*, 296 F. Supp. 1038, 1039 (S.D.N.Y. 1969). Rule 105, as the successor to Rule 10b-21, does not require a showing of scienter. In adopting Rule 10b-21, the Commission made it clear that there was not a requirement to show a specific manipulative intent. *See Exchange Act Release No. 26028*, fn. 6, *supra*. *See, e.g., Paul Giles et al.*, Exchange Act Release No. 36118 (August 18, 1995), 1995 WL 509484.

²³ 15 U.S.C. 78e (a) and 78j (b). *See also* Securities Act Section 17(a), 15 U.S.C. 77q(a), and Exchange Act Section 15(c) and Rule 15c1-2 thereunder, 17 CFR 240.15c1-2.

In publishing this interpretative guidance, we recognize that married put transactions may be used as part of a legitimate hedging strategy, and we do not want to discourage their use for that purpose. Rather, we are calling attention to abusive married put transactions that have characteristics described above and are used in a scheme to create sham long positions in order to evade Commission rules.

III. Conclusion

For the foregoing reasons, we find that this interpretation is consistent with Rule 3b-3 of the Exchange Act.²⁴

List of Subjects in 17 CFR Part 241

Securities.

Amendments to the Code of Federal Regulations.

■ For the reasons set forth above, the Commission is amending title 17, chapter II of the Code of Federal Regulations as set forth below:

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

■ Part 241 is amended by adding Release No. 34-48795 and the release date of November 17, 2003 to the list of interpretative releases.

Dated: November 17, 2003.

By the Commission.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 03-29084 Filed 11-20-03; 8:45 am]

BILLING CODE 8010-01-P

²⁴ 17 CFR 240.3b-3.



Federal Register

**Friday,
November 21, 2003**

Part IV

Department of Housing and Urban Development

24 CFR Part 203

**FHA TOTAL Mortgage Scorecard; Interim
Rule**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 203**

[Docket No. FR-4835-I-01]

RIN 2502-A100

FHA TOTAL Mortgage Scorecard

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule would codify the procedures that mortgagees and automated underwriting system vendors must observe if they opt to use the "Technology Open To Approved Lenders" (TOTAL) mortgage scorecard offered by the Federal Housing Administration (FHA). This rule follows a December 6, 2000, **Federal Register** notice, which announced the Department's intention to deploy the TOTAL mortgage scorecard. The interim rule also clarifies that the underwriting requirements to which FHA mortgagees must adhere are not altered by this rule. This rule only provides the requirements and procedures for use of the TOTAL mortgage scorecard.

EFFECTIVE DATE: December 22, 2003.

Comment Due Date: January 20, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Room 9278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone (202) 708-2121. (This is not a toll-free number.) Hearing- or speech-impaired persons may access this number by calling the toll-free Federal Information Relay Service number at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:**I. Background**

On December 6, 2000, the Department published a notice in the **Federal Register** (65 FR 76273), announcing its intention to deploy the FHA TOTAL

(originally an acronym for "Technology Open To All Lenders," but now more accurately standing for "Technology Open To Approved Lenders") Mortgage Scorecard for mortgage industry use. The TOTAL Mortgage Scorecard (or Scorecard), developed by HUD, assesses the credit worthiness of FHA mortgagors by evaluating certain mortgage application and mortgagor credit information that has been statistically proven to accurately predict the likelihood of mortgagor default. The TOTAL Mortgage Scorecard is not an automated underwriting system (AUS); rather, it is a mathematical equation intended for use within an automated underwriting system.

The December 6, 2000, notice (Notice) described the Department's purpose and objectives in deploying the TOTAL Mortgage Scorecard. The objectives for the use of the TOTAL Mortgage Scorecard, which were first stated in the Notice, are (1) to provide an improved credit evaluation system for FHA loans that has been statistically proven to accurately predict the likelihood of mortgagor default while providing a uniform system protective of borrowers; (2) to expand access to mortgage credit for low- and moderate-income mortgagors and discourage unlawful discrimination against mortgagors protected by the Fair Housing Act and the Equal Credit Opportunity Act; (3) to facilitate access to, and reduce the cost and time associated with, originating HUD/FHA-insured mortgages; and (4) to encourage a standardized, industry-wide capability for communication and exchange of information among members of the mortgage lending community.

The Notice also advised that approval would be rescinded for the two individual privately developed mortgage scorecards used in the processing of FHA mortgage loans, and that after deployment of the TOTAL Mortgage Scorecard, HUD would require use of the Scorecard in any AUS. The Notice also indicated that users of the TOTAL Mortgage Scorecard would receive documentation relief and credit policy waivers provided by HUD. Further, the Notice advised that HUD also had developed a Use Agreement that established the requirements and responsibilities for implementation and use of the TOTAL Mortgage Scorecard by qualified mortgagees and others that purchase, sell, underwrite, or document HUD mortgage loans for mortgagees under HUD's Direct Endorsement program. Two organizations have been working with HUD to test the use of the TOTAL Mortgage Scorecard. While HUD, through individual approvals,

could authorize other organizations to use the TOTAL Mortgage Scorecard, HUD has decided that a more efficient course of action is to promulgate regulations for the use of the Scorecard consistent with the purpose and objectives announced in the Notice instead of executing individual approvals that establish the requirements and responsibilities for use of the Scorecard.

Current regulations at 24 CFR 203.255 describe the documentation requirements mortgagees must follow when underwriting mortgage loans to be insured by FHA, and state that for mortgage loans rated as acceptable risks by an approved AUS, a Direct Endorsement underwriter need not certify that he/she has personally reviewed the credit application. The regulations do not, however, describe the rules and procedures that mortgagees and automated underwriting system vendors must observe if they opt to use the TOTAL Mortgage Scorecard, and to receive the inherent benefits accompanying its use, including documentation relief and credit policy revisions.

II. This Interim Rule

This interim rule would revise HUD's regulation at 24 CFR 203.251 to add a definition for "TOTAL," and § 203.255(b)(5) would be revised to remove the reference to "an automated underwriting system approved by the Secretary or Commissioner" and substitute "TOTAL Mortgage Scorecard." The requirements governing the use of the TOTAL Mortgage Scorecard would also be added to § 203.255(b)(5). Any AUS vendor that "calls" the TOTAL Mortgage Scorecard, and any FHA-approved mortgagee that obtains a risk assessment from the Scorecard, must abide by the requirements set forth in this regulation. Only AUSs developed, operated, owned, or used by FHA-approved Direct Endorsement mortgages, Fannie Mae, or Freddie Mac will be able to access the scorecard, and only FHA-approved mortgagees will be able to obtain risk assessments using the TOTAL Mortgage Scorecard. The rule affirms that Direct Endorsement mortgagees remain solely responsible for the underwriting decision. Implementation of this regulation will rescind Mortgagee Letters 96-34, 98-14, and 99-26, which address FHA's review of individual automated underwriting procedures. This rule does not alter the underwriting requirements to which FHA mortgagees must currently adhere. This rule only addresses the use of the TOTAL Mortgage Scorecard and the

requirements and procedures to which FHA mortgagees must adhere if they opt to use the Scorecard. Specifically, this regulation establishes the conditions for use of the Scorecard.

The TOTAL Mortgage Scorecard is only a tool to assist the mortgagee in managing its workflow and expediting the endorsement process and is not a substitute for the mortgagee's reasonable consideration of risk and credit worthiness. The Department believes that the TOTAL Mortgage Scorecard is a valuable tool, but that value depends upon proper use of the Scorecard in accordance with HUD requirements and procedures. To help assure the TOTAL Mortgage Scorecard is not misused, the rule would require mortgagees to provide full manual underwriting for mortgage applicants when the scorecard returns a "refer" risk score. The Scorecard results must not be used as the basis for rejecting any mortgage applicant.

In addition, the rule would provide that both mortgagees and vendors must:

- use the scorecard to process FHA and other loan products specified by the FHA Commissioner only, and for no other purpose;
- implement quality control procedures for scorecard usage and provide, at FHA's request, reports and loan samples that enable FHA to evaluate program operation;
- not use the TOTAL Mortgage Scorecard to direct mortgagors into other non-FHA product offerings (this requirement does not relieve a mortgagee from its obligations under § 203.10 concerning informed consumer choice for prospective FHA mortgagors);
- not disassemble, decompile, reverse engineer, derive or otherwise reproduce any part of the source code or algorithm in the TOTAL Mortgage Scorecard;
- not provide feedback messages that conflict with the Equal Credit Opportunity Act; and
- comply with any additional HUD/FHA requirements or procedures, that are applicable to the TOTAL Mortgage Scorecard and may be issued through handbooks, mortgagee letters, TOTAL User Guides, or TOTAL Developers Guide following appropriate advance notification, where applicable.

Automated underwriting system vendors and mortgagees found to violate these conditions may have their access to the Scorecard terminated with appropriate notice. HUD will provide a vendor or mortgagee with a 30-day notice of a violation and loss of privilege. The notice will state the

nature of the violation, the effective date of the loss of privilege, and the duration of the loss of privilege. A party receiving such a notice may appeal to the Deputy Assistant Secretary for Single Family Housing (DAS-SFH), or the Deputy Assistant Secretary's designee, before the effective date by providing evidence to refute the violation. The loss of privilege is stayed until the DAS-SFH notifies the party that the loss of privilege has been affirmed, rescinded, or modified. As an additional measure to ensure compliance with these requirements, access to the TOTAL Mortgage Scorecard by a FHA mortgagee will be conditioned upon the mortgagee's certification to comply with the requirements as provided in this rule.

III. Justification for Interim Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with HUD's own regulations on rulemaking at 24 CFR part 10. Part 10, however, does provide for exceptions for that general rule where HUD finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is determined "impracticable, unnecessary, or contrary to the public interest."

HUD finds that good cause exists to publish this interim rule for effect without first soliciting public comment in that prior public procedure would be contrary to the public interest. Currently, loan originators underwrite FHA loans manually or through Fannie Mae and Freddie Mac's proprietary automated systems that employ scorecards that were built using data on FHA borrowers but with algorithms known only to the developers and not to FHA. Over the last four years, HUD has developed its own FHA TOTAL Scorecard and through validation determined that it provides an improved credit evaluation system for FHA loans that has been statistically proven to accurately predict the likelihood of mortgagor default while providing a uniform system protective of borrowers. Indeed, the TOTAL Scorecard, among other attributes, better predicts delinquencies that may occur under FHA loans than any other underwriting means currently available.

The release of the TOTAL Scorecard and its implementation without delay through the issuance of this rule will allow FHA to benefit immediately from this more refined, uniform instrument that will better measure the credit worthiness of potential borrowers and

better protect the Government from financial losses. This is especially true in an environment of relatively low interest rates, increased demand for FHA insurance products, and historically high FHA delinquency rates. Additionally, because the scorecard is government property and HUD is prepared to accept data on TOTAL Scorecard performance, immediate deployment will allow HUD to efficiently track the performance of FHA loans and FHA lenders and quickly fix and refine the scorecard further.

For borrowers, immediate deployment of the TOTAL Scorecard will result in the institution of a single system nationwide that will offer uniform processing.

The interim rule enables, but does not require, FHA mortgage lenders to use this new automated means of assessing the credit worthiness of FHA mortgagors. Although use of the TOTAL Scorecard is not required, the Department believes that this rule makes use of the TOTAL Scorecard possible for a greater number of mortgagees, and for the benefit of a greater number of mortgagors, at an earlier point in time and in a more efficient manner than would execution of individual approvals to use the TOTAL Scorecard issued in accordance with outstanding mortgagee letter instructions. For FHA mortgagees that opt to use the TOTAL Scorecard, use of the TOTAL Scorecard is subject to several conditions to protect borrowers including that borrowers who are classified "refer" will be processed through manual underwriting. For the TOTAL Scorecard to provide the intended benefits of accurate assessment, FHA mortgagees must abide by the terms and conditions for use. Also, FHA mortgagees may not disassemble, decompile, reverse engineer, derive or otherwise reproduce any part of the source code or algorithm in the TOTAL Scorecard. Such tampering may render the TOTAL Scorecard inaccurate and unusable.

IV. Findings and Certifications

Paperwork Reduction Act

The proposed new information collection requirements contained in § 203.255(b)(5) have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Under this Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

The public reporting burden for this new collection of information is estimated to include the time for reviewing the instructions, searching

existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the

estimated public reporting burden is provided in the following table:

Information collection	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours
	6,000	1	6,000	1	6,000

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Comments must be received by January 20, 2004. Comments must refer to the proposal by name and docket number (FR-4835-I-01) and must be sent to:

Lauren Wittenberg, HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503-0009, Lauren.Wittenberg@omb.eop.gov, and Gloria Diggs, Reports Liaison Officer, Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Room 9116, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000.

Environmental Review

A Finding of No Significant Impact with respect to the environment for this rule has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the office of the Rules Docket Clerk, Office of the General

Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410-0500.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This interim rule does not impose a federal mandate that will result in expenditure by state, local, or tribal governments, within the meaning of the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule would not have a significant economic impact on a substantial number of small entities. The rule governs access to, and use of, an automated, electronic tool to assist mortgagees in managing workflow and expediting the endorsement process. There are no anti-competitive discriminatory aspects of the rule with regard to small entities, and there are not any unusual procedures that would need to be complied with by small entities. Although HUD has determined that this interim rule would not have a significant economic impact on a substantial number of small entities, HUD welcomes comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either (1) imposes substantial direct compliance costs on state and local governments and is not required by statute, or (2) the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This interim rule

would not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled "Regulatory Planning and Review"). OMB determined that this rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the interim rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the Regulations Division, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Numbers for 24 CFR part 203 are 14.117 and 14.133.

List of Subjects in 24 CFR Part 203

Hawaiian Natives, Home improvement, Indians-lands, Loan programs-housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

■ Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR part 203 to read as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

■ 1. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, and 1715u; 42 U.S.C. 3535(d).

■ 2. Amend § 203.251 by adding paragraph (t) to read as follows:

§ 203.251 Definitions.

* * * * *

(t) *TOTAL* is an acronym that stands for "Technology Open To Approved Lenders." *TOTAL* is a mortgage scorecard based on a mathematical equation that is to be used within an automated underwriting system (AUS). *TOTAL* is a tool to assist the mortgagee in managing its workflow and expediting the endorsement process, and is not a substitute for the mortgagee's reasonable consideration of risk and credit worthiness. Direct Endorsement mortgagees using *TOTAL* remain solely responsible for the underwriting decision.

■ 3. Amend § 203.255 by revising paragraph (b)(5) to read as follows:

§ 203.255 Insurance of mortgage.

* * * * *

(b) * * *

(5) An underwriter certification, on a form prescribed by the Secretary, stating that the underwriter has personally reviewed the appraisal report and credit application (including the analysis performed on the worksheets) and that the proposed mortgage complies with HUD underwriting requirements, and incorporates each of the underwriter certification items that apply to the mortgage submitted for endorsement, as set forth in the applicable handbook or similar publication that is distributed to all Direct Endorsement mortgagees, except that where the *TOTAL* Mortgage Scorecard is used by the mortgagee, and the *TOTAL* Mortgage Scorecard has determined that the application represents an acceptable risk under terms and conditions agreed to by the FHA, a Direct Endorsement underwriter shall not be required to certify that the underwriter has personally reviewed the credit application (including the analysis performed on any worksheets). The following requirements are also

applicable to the use of the *TOTAL* Mortgage Scorecard:

(i) Mortgagees and vendors must certify to compliance with these requirements:

(A) *Permissible users.* Only FHA-approved automatic underwriting systems (AUSs) developed, operated, owned, or used by FHA-approved Direct Endorsement mortgagees, Fannie Mae, or Freddie Mac, may access *TOTAL*, and only FHA-approved mortgagees will be able to obtain risk-assessments using *TOTAL*;

(B) *Limitation on use.* Results from *TOTAL* must not be used as the basis for rejecting any mortgage applicant. Mortgagees must provide full manual underwriting for mortgage applicants when *TOTAL* returns a "refer" risk score.

(C) *Vendor and mortgagee requirements.* Both mortgagees and vendors must:

(1) Use *TOTAL* to process FHA and other loan products specified by the FHA Commissioner only and for no other purpose;

(2) Implement quality control procedures for *TOTAL* usage and provide, at FHA's request, reports and loan samples that enable FHA to evaluate program operation;

(3) Not use *TOTAL* to direct mortgagors into other non-FHA product offerings (this requirement does not relieve a mortgagee from its obligations under § 203.10 concerning informed consumer choice for prospective FHA mortgagors);

(4) Not disassemble, decompile, reverse engineer, derive or otherwise reproduce any part of the source code or algorithm in *TOTAL*;

(5) Not provide feedback messages that conflict with the Equal Credit Opportunity Act; and

(6) Comply with any additional HUD/FHA requirements or procedures that are applicable to the Scorecard and may be issued through handbooks, mortgagee letters, *TOTAL* User Guides, or *TOTAL* Developers Guide following appropriate advance notification, where applicable.

(ii) *Loss of privilege to use TOTAL.* Mortgagees and AUS vendors found to violate the requirements applicable to the use of *TOTAL* may have their access to *TOTAL* and all associated privileges terminated upon appropriate notice in accordance with the following procedure:

(A) *Notice.* HUD will provide a mortgagee or vendor with a 30-day notice of a violation and loss of privilege. The notice will state the nature of the violation, the effective date of the loss of the privilege, and the duration of the loss of the privilege. The notice will become effective on the date provided in the notice, unless the mortgagee or vendor appeals the violation and loss of privilege in accordance with paragraph (b)(5)(ii)(B) of this section.

(B) *Appeal.* A party receiving a notice of violation may appeal to the Deputy Assistant Secretary for Single Family Housing (DAS-SFH), or his or her designee, before the effective date of the notice by providing evidence to refute the violation. The loss of privilege is stayed until the DAS-SFH, or designee, notifies the party that the loss of privilege has been affirmed, rescinded, or modified.

* * * * *

Dated: October 29, 2003.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 03-29055 Filed 11-20-03; 8:45 am]

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The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.access.gpo.gov/nara/nara005.html>. Some laws may not yet be available.

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To amend title XXI of the Social Security Act to make technical corrections with respect to the definition of qualifying State. (Nov. 17, 2003; 117 Stat. 1354)

S. 677/P.L. 108-128

Black Canyon of the Gunnison Boundary Revision Act of 2003 (Nov. 17, 2003; 117 Stat. 1355)

S. 924/P.L. 108-129

To authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, and for other purposes. (Nov. 17, 2003; 117 Stat. 1358)

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